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U.S. Department of Health, Education, and Welfare

Food and Drug Administration

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

28201-28300

FOODS

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce, or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered after default or consent and in which, in one case, a decree of dismissal was entered after trial by the court; and (2) criminal proceedings which were terminated upon pleas of nolo contendere or guilty. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

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SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F.N.J. NOS. 28201-28300

Adulteration, Section 402(a) (2) (B), the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408(a) ; Section 402(a) (2) (C), the article contained a food additive which was unsafe within the meaning of Section 409; Section 402(a) (3), the article consisted in whole or in part of a filthy, putrid, or decomposed substance, or it was otherwise unfit for food; Section 402(a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it might have become contaminated with filth or might have been rendered injurious to health; Section 402(b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b) (2), a substance had been substituted wholly or in part for the article; Section 402(b) (4), a substance had been added to the article or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality; Section 402(c), the article contained a color additive which was unsafe within the meaning of Section 706(a) ; Section 408(a), a poisonous or deleterious pesticide chemical, or a pesticide chemical not generally recognized, among qualified experts, as safe for use, added to a raw agricultural commodity, was deemed to be unsafe because no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare, or because the quantity of the pesticide chemical in or on the raw agricultural commodity was not within the limits of a tolerance prescribed by the Secretary of Health, Education, and Welfare; Section 409, a food additive was deemed to be unsafe because the food additive and its use or intended use failed to conform to the terms of an effective exemption or because there was not in effect, or the food additive and its use or intended use failed to be in conformity with, a regulation prescribing conditions for safe use; and Section 706(a), a color additive was deemed to be unsafe because there was not in effect a regulation listing such additive for a particular use, and such additive was neither from a batch certified for such use, nor had, with respect to such use, been exempted from certification.

Misbranding, Section 403(a), the labeling of the article was false and misleading; Section 403(e) (2), the article was in package form, and it failed to bear a label containing an accurate statement of the quantity of the contents in terms of weight, measure or numerical count; Section 403(f), a word, statement, or other information required by or under authority of the Act to appear on the label or labeling was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; Section 403(g) (1), the article purported to be or was represented as a food for which a definition and standard of identity had been prescribed by regulations and it failed to conform to such definition and standard; Section 403(h), the article purported to be or was represented as (1) a food for which a standard of quality had been prescribed by regulations, and its quality fell below such standard or (2) a food for which a standard of fill of container had been prescribed by regulations and it fell below the applicable standard of fill of container; Section 403(i) (2), the article was not subject to the provisions of Section 403(g) and the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient; and Section 403(j), the article

purported to be and was represented for special dietary uses, and its label failed to bear such information concerning its vitamin, mineral, and other dietary properties as the Secretary had determined to be, and by regulation prescribed as, necessary in order fully to inform purchasers as to its value for such uses.

BEVERAGES AND BEVERAGE MATERIALS

28201. Coffee. (F.D.C. No. 46404. S. No. 49-774 R.)

QUANTITY: 23 cases, 24 cans each, at Roswell, N. Mex.

SHIPPED: 7-21-61, from Houston, Tex., by Duncan Coffee Co.

LABEL IN PART: (Ctn.) "24—1 Lb. Cans Regular * * * Maryland Club Coffee Duncan Coffee Co. Houston, Texas" and (can) "Maryland Club Coffee * * * Net Wt. 1 Lb."

RESULTS OF INVESTIGATION: Examination showed the article to be short weight.

LIBELED: 8-29-61, Dist. N. Mex.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 9-25-61. Consent—claimed by Duncan Coffee Co., and repacked.

28202. Green coffee. (F.D.C. No. 46762. S. No. 1-212 T.)

QUANTITY: 206 132-lb. bags, at Greensboro, N.C.

SHIPPED: 11-2-61, from New Orleans, La., by Leon Israel & Bros., Inc.

LIBELED: 12-1-61, M. Dist. N.C.

CHARGE: 402(a) (3)—contained insects, insect larvae, and insect-damaged coffee beans when shipped.

DISPOSITION: 7-3-62. Consent—claimed by Leon Israel & Bros., Inc., and released under bond to be returned to the original supplier at Mombasa, Kenya.

28203. Green coffee (2 seizure actions). (F.D.C. No. 45598. S. Nos. 30-655/6 R.)

QUANTITY: 268 150-lb. bags and 8 150-lb. bags, at New Orleans, La., in possession of Biehl & Co., Inc.

SHIPPED: (268-bag lot) 1-23-61, from Cutuco, La Union, El Salvador; and (8-bag lot) 11-24-60, from Rio de Janeiro, Brazil.

LIBELED: 3-24-61, E. Dist. La.

CHARGE: 402(a) (3)—contained bird excreta while held for sale; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: (268-bag lot) 4-28-61. Consent—claimed by J. A. Folger & Co., New Orleans, La. Segregated; 298 lbs. destroyed. (8-bag lot) 6-14-61. Default—destruction.

28204. Instant coffee. (F.D.C. No. 47221. S. No. 48-879 T.)

QUANTITY: 50 cases, 18 jars each, at Kahului, Maui, Hawaii.

SHIPPED: 2-15-62, from San Leandro, Calif., by General Foods Corp.

LABEL IN PART: (Jar) "Giant * * * Size 10 Oz. Instant Maxwell House Coffee * * * Made by Maxwell House Division General Foods Corporation."

RESULTS OF INVESTIGATION: Examination showed the article to be short weight.

LIBELED: 2-28-62, Dist. Hawaii.

CHARGE: 403(a)—when shipped, the label statement "Giant * * * Size 10 Oz." was false and misleading as applied to a product containing an average of only 9.78 ounces; and 403(e) (2)—the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 4-16-62, amended decree 4-20-62. Default—delivered to charitable institutions.

28205. Carling's beer. (F.D.C. No. 47913. S. No. 7-980 T.)

QUANTITY: 296 cases, each containing 24 cans, at Providence, R.I.

SHIPPED: 7-11-62, from Natick, Mass., by Carling Brewing Co.

LABEL IN PART: (Can) "Carling Black Label Beer * * * Brewed and Filled by Carling Brewing Company, Natick, Mass. * * * Contents 12 Fl. Ozs."

RESULTS OF INVESTIGATION: Examination showed that the article was short in volume.

LIBELED: 7-31-62. Dist. R.I.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 8-15-62. Default—delivered to charitable institutions.

28206. Frozen orange juice concentrate. (F.D.C. No. 46585. S. Nos. 42-260 T, 42-441/2 T.)

QUANTITY: 3,516 cases, 48 6-oz. cans each, at Philadelphia, Pa.

SHIPPED: Between 7-26-61 and 9-11-61, from Jacksonville and Tampa, Fla., by Food Fair Stores, Inc.

LABEL IN PART: (Can) "FF * * * Pure Concentrated Orange Juice Net Contents 6 Fl. Ozs. No Sugar Added * * * This can makes 6 servings; equal to the juice of one dozen average-size oranges Quick Frozen Distributed by F.F. Products, Inc., Phila. 34, Pa."

LIBELED: 10-26-61, E. Dist. Pa.

CHARGE: 403(a)—when shipped, the label statement "This can makes 6 servings; equal to the juice of one dozen average-size oranges," was false and misleading.

DISPOSITION: 6-27-62. Consent—claimed by Food Fair Stores, Inc., and released under bond for relabeling.

28207. Tea. (F.D.C. No. 47521. S. Nos. 11-230/2 T.)

QUANTITY: 8 cases, 44 boxes each, and 4 cases, 28 boxes each, at Rochester, N.Y.

SHIPPED: Between 3-28-62 and 4-18-62, from Cleveland, Ohio, by Cook Coffee Co.

LABEL IN PART: (Box) "Net Weight One-Half Pound Crown Special Blend For Iced Tea"; and (box) "Net Weight One-Half Pound [or "One Pound"] Cook's Exquisite Tea"; (all boxes labeled in addition) "Packed for and Distributed Exclusively by India Tea Company Cook Coffee Company Home Tea Company Central Tea Company Cleveland, Ohio."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 6-1-62, W. Dist. N.Y.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 6-28-62. Consent—claimed by Cook Coffee Co., and released under bond for reweighing and repacking.

CEREALS AND CEREAL PRODUCTS

FLOUR

28208. Flour. (F.D.C. No. 46653. S. No. 80-496 R.)

INFORMATION FILED: 1-4-62, Dist. Mass., against Mazzola Bros. Bakery Trust, a trust, Nazzareno Mazzola, and Domenic J. Mazzola, individuals.

ALLEGED VIOLATION: Between 5-25-61 and 6-28-61, while quantities of flour were being held for sale after shipment in interstate commerce, the defendants caused the article to be held in a building accessible to insects and to be exposed to the contamination of insects, by placing the flour in insect-contaminated flour-conveying equipment in said building, which acts resulted in the article being adulterated.

CHARGE: 402(a)(3)—contained insects and insect parts; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 5-21-62. Trust—\$500 fine; each individual—probation for 6 months.

28209. Flour. (F.D.C. No. 46675. S. No. 57-010 R.)

INFORMATION FILED: 4-23-62, Dist. Minn., against La Grange Mills, a corporation, Red Wing, Minn., Louis W. Back, president, and Earl F. Holmquist, head miller.

SHIPPED: 4-22-61, from Minnesota to New York.

LABEL IN PART: (Bags) "100 LBS. NET Distributor Jacob Kulla Sons New York Riverside Choice Spring Patent Flour Bleached-Bromated-Enriched."

RESULTS OF INVESTIGATION: Analysis of the article showed it to be deficient in the enrichment ingredients.

CHARGE: 402(b)(1)—valuable constituents, thiamine, riboflavin, niacin, and iron had been in part omitted from the article; and 403(g)(1)—the article purported to be and was represented as enriched bromated flour, a food for which a definition and standard of identity had been prescribed by regulations and the article failed to conform to the definition and standard of identity.

PLEA: Guilty.

DISPOSITION: 4-23-62. Corporation—\$1,000 fine; Holmquist—\$50 fine; Back—\$50 fine.

28210. Flour. (F.D.C. No. 47089. S. No. 6-694 T.)

INFORMATION FILED: 4-24-62, Dist. Conn., against Arthur T. Makris, t/a Empire Baking Co., Hartford, Conn.

ALLEGED VIOLATION: On 10-10-61, the defendant caused quantities of flour, while held for sale after shipment in interstate commerce, to be held in a building accessible to insects and to be exposed to contamination by insects by placing the flour in insect-contaminated flour-conveying equipment, which acts resulted in the article being adulterated.

CHARGE: 402(a) (3)—contained insects and insect parts; and 402(a) (4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 6-18-62. \$500 fine.

28211. Flour. (F.D.C. No. 46729. S. Nos. 82-455/6 R, 95-464 R, 27-101 T, 27-103 T.)

INFORMATION FILED: 5-4-62, N. Dist. Tex., against Dixie Cream Donut Flour Co., a corporation, Dallas, Tex., and W. Kenneth Vaughn, secretary-treasurer.

ALLEGED VIOLATION: Between 2-15-61 and 8-4-61, the defendants caused quantities of flour, while held for sale after shipment in interstate commerce, to be held in a building accessible to insects and to be exposed to contamination by insects, which acts resulted in the articles being adulterated. Between 7-13-61 and 8-4-61, the defendants caused to be introduced into interstate commerce at Dallas, Tex., for delivery to Winfield and Wichita, Kans., and Ponca City, Okla., quantities of flour which were adulterated.

LABEL IN PART: (Bag) "Net Weight 100 Lbs. Dixie Cream Cake Donut Flour Made by Dixie Cream Donut Flour Co. Dallas, Texas." and "100 Lbs. Net Dixie Cream Donut Flour Dixie Cream Donut Flour Co. Dallas, Texas."

CHARGE: 402(a) (3)—Portions of the article contained insects and insect fragments; and 402(a) (4)—all lots of the article were prepared, packed, or held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 6-20-62. Corporation—\$500 fine; probation for 3 years. Vaughn—\$500 fine; probation for 3 years.

28212. Flour. (F.D.C. No. 47523. S. No. 55-507 T.)

QUANTITY: 399 100-lb. bags, at Ponce, P.R., in possession of Alcoa Steamship Co., Inc., warehouse.

SHIPPED: 4-16-62, from New Orleans, La.

LIBELED: 6-6-62, Dist. P.R.

CHARGE: 402(a) (3)—contained insects and insect larvae; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 8-2-62. Default—destruction.

28213. Flour. (F.D.C. No. 47687. S. Nos. 77-311/14 T, 77-316 T.)

QUANTITY: 50 10-lb. bags and 96 25-lb. bags, at Marietta, Ga., in possession of Simpson Andrews Co.

SHIPPED: Between 10-31-61 and 5-29-62, from Cleveland, Tenn., and Trenton, Ill.

LIBELED: 6-22-62, N. Dist. Ga.

CHARGE: 402(a) (3)—contained rodent urine; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 8-14-62. Default—denatured for use as animal feed.

28214. Flour and cornmeal. (F.D.C. No. 47111. S. Nos. 18-677/8 T.)

INFORMATION FILED: 5-18-62, E. Dist. Okla., against Palmer-Swadley Wholesale Grocery, a partnership, and Guy Swadley, Jr., a partner, Eufaula, Okla.

ALLEGED VIOLATION: Between 10-12-61 and 11-16-61, the defendants caused quantities of flour and cornmeal, while held for sale after shipment in interstate commerce, to be placed in a building accessible to rodents and to be exposed to contamination by rodents, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—the flour contained rodent urine; and 402(a)(4)—both articles were held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 5-29-62. Firm—\$100 fine; Swadley—\$100 fine.

28215. Potato flour. (F.D.C. No. 47477. S. No. 30-631 T.)

QUANTITY: 100 100-lb. bags, at Jerome, Idaho.

SHIPPED: 4-4-62, from Los Angeles, Calif. This was a return shipment.

LABEL IN PART: "Lectone * * * King of Spuds * * * Pure Potato Flour
Packed by Potato Products Corp. East Grand Forks, Minn."

LIBELED: 5-2-62, Dist. Idaho.

CHARGE: 402(a)(3)—contained insects, insect larvae, and insect fragments when shipped.

DISPOSITION: 7-24-62. Default—delivered to a State institution for use as animal feed.

28216. Soya flour. (F.D.C. No. 47732. S. Nos. 80-411/12 T.)

QUANTITY: 321 50-lb. sacks and 37 100-lb. sacks, at Dallas, Tex.

SHIPPED: 9-15-61, from Chicago, Ill.

LIBELED: 7-17-62, N. Dist. Tex.

CHARGE: 402(a)(3)—while held for sale, contained insects.

DISPOSITION: 8-2-62. Consent—claimed by Central Soya Co., of Ft. Wayne, Ind., and converted into animal feed.

MACARONI AND NOODLE PRODUCTS

28217. Macaroni. (F.D.C. No. 47250. S. Nos. 15-390/91 T.)

QUANTITY: 1,043 cases, 4 boxes each, at Columbus, Ohio.

SHIPPED: Between 4-12-61 and 7-26-61, from Brooklyn, N.Y.

LIBELED: 3-19-62, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 6-8-62. Default—destruction.

28218. Noodles. (F.D.C. No. 46976. S. No. 51-218 T.)

QUANTITY: 57 cases, 6 24-oz. bags each, at Milwaukie, Oreg.

SHIPPED: 11-7-61 and 11-24-61, from Seattle, Wash., by Major Italian Foods.

LABEL IN PART: (Bag) "Majorette Brand Family Pak Egg Noodles, Net Weight 24 ounces Major Italian Foods, Seattle, Washington—Containing 5.5% or more of U.S. Dept. Ag. Graded Egg Yolks."

RESULTS OF INVESTIGATION: Examination showed that the article contained less than the declared amount of egg yolks.

LIBELED: On or about 1-30-62, Dist. Oreg.

CHARGE: 403(g)(1)—when shipped, the article purported to be and was represented as egg noodles, a food for which a definition and standard of identity had been prescribed, and the article failed to conform to the definition and standard since it contained less than 5.5 percent by weight of solids of egg or egg yolk.

DISPOSITION: 3-12-62. Default—delivered to a charitable or public institution.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

28219. Puffed wheat and puffed rice (4 seizure actions). (F.D.C. Nos. 46110, 46184/5, 46228. S. Nos. 70-805 R, 80-686 R, 80-730/1 R, 81-051 R.)

QUANTITY: 1,016 cases, 24 pkgs. each, and 100 cases, 18 pkgs. each, of puffed wheat, and 90 cases, 18 pkgs. each, of puffed rice, at Somerville and Readville, Mass.

SHIPPED: Between 6-7-61 and 7-14-61, from Lemoyne and Harrisburg, Pa., by Quaker Oats Co.

LABEL IN PART: (Pkg.) "Weight 4 Oz. [or "6" Oz.]" Net * * * Quaker Puffed Wheat Manufactured by The Quaker Oats Company * * * Chicago" and "Weight 6¾ Oz. Net * * * Quaker Puffed Rice Manufactured by the Quaker Oats Company * * * Chicago."

RESULTS OF INVESTIGATION: Examination showed that the articles were short weight.

LIBELED: 7-24-61, 7-25-61, 7-27-61, and 8-4-61, Dist. Mass.

CHARGE: 403(e)(2)—when shipped, the articles failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 9-27-61. Default—delivered to charitable institutions.

28220. Rice. (F.D.C. No. 46398. S. No. 44-794 R.)

INFORMATION FILED: 12-26-62, W. Dist. Wash., against American Warehouse Co., Seattle, Wash., a corporation, and Howard E. Shiel, president.

ALLEGED VIOLATION: Between 4-12-60 and 12-6-60, the defendants caused quantities of rice, while held for sale after shipment in interstate commerce, to be held in a building accessible to insects and rodents and to be exposed to contamination by insects and rodents, which acts resulted in the article being adulterated.

CHARGE: 402(a)(3)—contained insects, insect skins, and insect webbing; and 402(a)(4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 6-22-62. Corporation—\$600 fine; Shiel—\$200 fine.

28221. Rice and unpopped popcorn (3 seizure actions). (F.D.C. No. 46972. S. Nos. 20-428/9 T, 20-431 T.)

QUANTITY: 55 100-lb. bags of rice, 173 bales, 4 12½-lb. bags each, and 86 100-lb. bags of popcorn, at Oklahoma City, Okla., in possession of Public Warehouse Co., Inc.

SHIPPED: Between 10-2-61 and 12-7-61, from Carlisle, Ark., Lake View, Iowa, and Tarkio, Mo.

LIBELED: 2-13-62, W. Dist. Okla.

CHARGE: 402(a)(3)—contained rodent urine and rodent excreta; 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-22-62. Consent—claimed by Public Warehouse Co., Inc. Segregated; 1½ 100-lb. bags of rice, 2 100-lb. bags and 10 bales of popcorn sold for use in processed dog food.

28222. Milo maize. (F.D.C. No. 45153. S. No. 24-383 R.)

QUANTITY: 121,500 lbs. at Kansas City, Kans.

SHIPPED: 10-21-60, from Dalton, Mo., by Dalton Elevator.

LIBELED: 11-23-60, Dist. Kans.

CHARGE: 402(a) (2) (B)—the article was a raw agricultural commodity and, when shipped, contained a pesticide chemical, namely, a mercurial compound, which was unsafe within the meaning of 408(a), since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on milo maize had been prescribed by regulation.

DISPOSITION: 11-30-60. Consent—claimed by Mid-Continent Grain Co., Kansas City, Mo., and destroyed.

28223. Unpopped popcorn. (F.D.C. No. 46591. S. No. 28-168 T.)

QUANTITY: 321,000 lbs. at North Bend, Nebr.

SHIPPED: Between 7-7-61 and 7-16-61, from Hamburg, Iowa, by Reid Grain Co.

LIBELED: 11-3-61, Dist. Nebr.

CHARGE: 402(a) (3)—when shipped, contained insect larvae, insect parts, and rodent excreta pellets; and 402(a) (4)—held and prepared under insanitary conditions.

DISPOSITION: 5-18-62. Consent—claimed by Blevins Popcorn Co., North Bend, Nebr. Segregated; 13,565 lbs. destroyed.

CHOCOLATE, CONFECTIONERY, AND RELATED PRODUCTS

CHOCOLATE PRODUCTS

28224. Chocolate flavor mix. (F.D.C. No. 47393. S. No. 4-198 T.)

QUANTITY: 41 cases, 12 1-lb. pkgs. each, and 52 cases, 24 8-oz. pkgs. each, at Halethorpe (Baltimore), Md.

SHIPPED: 2-8-62 and 2-19-62, from Newark, Del., by General Foods Corp.

LABEL IN PART: (Pkg.) "Baker's Instant Chocolate Flavor Mix Fortified with Vitamins C-D-B₂ Iron * * * 8 Oz. * * * Wholesome and Nutritious! * * * 2 servings of Baker's Instant (1½ oz.) provide at least 50% of the adult's and child's minimum daily requirements of: * * * Walter Baker Chocolate, General Foods Corp. Dorchester, Mass."

LIBELED: 3-19-62, Dist. Md.

CHARGE: 403(a)—when shipped, the label statements which represented and suggested that the article was adequate and effective to promote good growth and health; develop healthy teeth, gums and skin; convert food to energy; promote strong bones and teeth; and promote healthy blood; were false and misleading, since the article was not adequate and effective for such purposes.

DISPOSITION: 4-19-62. Default—delivered to charitable institutions.

28225. Chocolate-covered peanuts. (F.D.C. No. 47564. S. No. 69-368 T.)

QUANTITY: 9 cases, each containing 16 cartons of 24 boxes each, at Norfolk, Va.

SHIPPED: 2-7-62 and 3-29-62, from Philadelphia, Pa., by Blumenthal Bros. Chocolate Co.

LABEL IN PART: (Box) "Goobers Milk Chocolate Covered Peanuts BB Contents: * * * Net Wt. .875 ozs. Blumenthal Bros. Chocolate Co., Phila., Pa."

RESULTS OF INVESTIGATION: The product was chocolate-covered peanuts in boxes enclosed in a wrapper on which the manufacturer's name and address and quantity of contents were printed on the side panel of the box in small type and were partially obscured by the label overlap. Part or all of the ingredient statement was on the side panel in small type, and was partially obscured by an opaque blue band used to assist in removing the wrapper from the box.

LIBELED: 4-27-62, E. Dist. Va.

CHARGE: 403(f)—when shipped, the information required by 403 (e) (1), (e) (2) and (i) (2) to appear on the label, namely, name and address of manufacturer, packer, or distributor, quantity of contents, and ingredient statements, was not prominently placed on the label with such conspicuousness (as compared with other words and statements on the label) as to render such information likely to be read by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 8-13-62. Default—delivered to a Federal institution.

CONFECTIONERY

28226. Candy. (F.D.C. No. 46652. S. Nos. 65-991/3 R, 85-045/7 R.)

INFORMATION FILED: 1-4-62, E. Dist. Ark., against Hoffman Candy Co., Inc., North Little Rock, Ark., and Joseph C. Hoffman, president.

SHIPPED: Between 5-8-61 and 5-22-61, from Arkansas to Tennessee.

LABEL IN PART: (Bar) "HOFFMAN Candy Co. MINT PILLOW Approx. 10 3201 E. Broadway, N. Little Rock, Ark." "PECO BAR 1½ Oz. Or Over HOFFMAN CANDY CO. North Little Rock, Ark." "KRUNCH 1½ Ounce HOFFMAN CANDY COMPANY North Little Rock, Ark." "10¢ KRUNCH 10¢ 2 Oz. Or Over Sugar, Corn Syrup, Peanut Butter and Salt. HOFFMAN CANDY COMPANY North Little Rock, Ark." "10¢ PECO BAR 10¢ 2 Ozs. Or Over Sugar, Peanuts, Corn Syrup, Cocoanut, Soda & Salt HOFFMAN CANDY CO. North Little Rock, Ark."

RESULTS OF INVESTIGATION: Examination showed that the articles were short weight.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents; and 403(i) (2)—the label failed to bear the common or usual name of each ingredient.

PLEA: Nolo contendere.

DISPOSITION: 5-7-62. Corporation—\$75 fine, probation for 1 year. Individual—probation for 1 year.

28227. Candy. (F.D.C. No. 46685. S. Nos. 39-732/4 R, 47-971 R, 47-974 R.)

INFORMATION FILED: 1-24-62, N. Dist. Ohio, against M. G. Shaghalian & Co., Inc., Toledo, Ohio, and Miran Shaghalian, secretary.

SHIPPED: Between 1-30-61 and 2-14-61, from Ohio to Michigan, Iowa, and Illinois.

CHARGE: 402(a)(3)—contained insects, insect fragments, rodent hair fragments, and feather barbules; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 3-2-62. Corporation—\$1,000 fine on counts 1 and 2 of the information; Shaghalian—\$500 fine on counts 3 and 4 and probation for 2 years.

28228. Candy bars. (F.D.C. No. 47055. S. No. 47-170 T.)

QUANTITY: 27 ctus., each containing 24 pkgs. of 6 candy bars each, at St. Louis, Mo.

SHIPPED: 10-11-61 and 10-25-61, from Centralia, Ill., by Hollywood Brands, Inc.

LABEL IN PART: (Pkg.) "Hollywood's Pay Day Candy 6 Bars Salted Nut Roll * * * Distr. By Hollywood Brands Inc., Centralia, Ill."

RESULTS OF INVESTIGATION: Examination showed the packages of 6 candy bars failed to bear a statement of the quantity of contents.

LIBELED: 3-1-62, E. Dist. Mo.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents in terms of weight.

DISPOSITION: 4-4-62. Default—delivered to charitable institutions.

28229. Nut caramel candy. (F.D.C. No. 46589. S. No. 14-101 T.)

QUANTITY: 46 cases, 24 pkgs. each, at Chicago, Ill.

SHIPPED: 8-24-61, from Mansfield, Mass., by Mansfield Chocolate Co., a division of the James O. Welch Co.

LABEL IN PART: (Pkg.) "Welch's Nut Caramels Net Weight 8 Ozs. * * * James O. Welch Company Los Angeles, Calif. * * * Cambridge, Mass."

RESULTS OF INVESTIGATION: Examination showed that the only nut listed in the ingredient statement was peanuts, and that the quantity of contents and ingredient statements were inconspicuous due to being printed in silver-colored ink on paper of a noncontrasting color with a metallic-colored design and the ingredient statement was also difficult to read due to being printed on the label in such a position as to bring it precisely on the bottom edge of the box.

LIBELED: 10-19-61, N. Dist. Ill.

CHARGE: 403(a)—when shipped, the label statement "Nut Caramels" was misleading in view of the inconspicuousness of the ingredient statement which declared peanuts as the only nut ingredient; and 403(f)—the quantity of contents and ingredient statements were not prominently placed on the label with such conspicuousness (as compared with other words and statements on the label) as to render such information likely to be read by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: James O. Welch Co. appeared as claimant and filed an answer denying that the product was misbranded as alleged in the libel. Thereafter, on 11-22-61, pursuant to stipulation of the parties, an order was entered directing removal of the case for trial to the District of Rhode Island. The case was tried without a jury on 1-23-62, after which it was taken under

advisement by the court. On 3-26-62, the court handed down the following opinion:

DAY, *District Judge*: "This is a libel brought under the Federal Food, Drug and Cosmetic Act, 21 U.S.C.A. § 301, et seq., for the condemnation of 46 cases, more or less, each containing 24 packages of 'Welch's Nut Caramels'. It was originally filed in the District Court for the Northern District of Illinois and was removed to this District for trial by stipulation of the parties under the provisions of 21 U.S.C.A. § 334(a).

"The libel charges that said candy was misbranded in two respects when introduced into and while in interstate commerce, viz:

(1) that it was misbranded within the meaning of 21 U.S.C.A. § 343(a) 'in that the label statement "Nut Caramels" is misleading in view of the inconspicuousness of the ingredient statement which declares peanuts as the only nut ingredient.'

(2) that it was misbranded within the meaning of 21 U.S.C.A. § 343(f) 'in that the information required by Sections 343 (e)(2) and (i)(2) to appear on the label, namely, quantity of contents and ingredient statements, is not prominently placed on the label with such conspicuousness (as compared with other words and statements on the label) as to render such information likely to be read by the ordinary individual under customary conditions of purchase and use.'

"The claimant, James O. Welch Company, admits that the packages involved herein were shipped by it in interstate commerce. It also admits that the only nuts in said candy are peanuts. The sole issue is whether said candy was misbranded as charged.

"During the trial the Government introduced in evidence three of said packages as being typical of those seized by it and which it seeks to have condemned. In addition, it presented the testimony of a psychologist that the words 'NUT CARAMELS' appearing on the label of said packages were many times more visible than the net weight and list of ingredients statements thereon. However, he did testify that the net weight and ingredients statements could be easily read by the average individual at a distance of approximately 29 inches. The Government also presented expert testimony by an allergist that some individuals are allergic to peanuts. Under cross-examination this expert witness stated that more individuals were allergic to other kinds of nuts. He also testified that technically the peanut is not a nut, but a legume.

"The sole witness called by the claimant was one of its officers. He testified that in the candy making business the peanut is universally considered as being a nut. He further testified that during the many years of his association with the claimant he had never received or known of a complaint by a consumer that he had been misled by the description 'NUT CARAMELS' appearing on the label of the packages containing said candy.

"No evidence was offered by the Government to the effect that the ordinary consumer did not consider the peanut to be a nut, nor did it undertake to show by any evidence that ordinary consumers have been misled by the labeling on said packages.

"This being a civil action, the burden is upon the Government to prove the grounds for forfeiture alleged in the libel, or either of them, by a fair preponderance of the evidence. *United States v. Wood*, 1955, 4 Cir., 226 F. 2d 924; *United States v 449 Cases, Containing Tomato Paste*, 1954, 2 Cir., 212 F. 2d 567.

"Although the libel alleges that said candy is subject to condemnation on the ground that it is misbranded within the meaning of 21 U.S.C.A. § 343(a) and also within the meaning of 21 U.S.C.A. § 343(f), it is clear that the Government seeks condemnation thereof on the ground that the net weight and ingredient statements on the label of the packages containing it are 'not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or devices in the labeling) and in such terms as to render them likely to be read and understood by the ordinary individual under customary conditions of purchase and use.' 21 U.S.C.A. § 343(f).

"Any contention that the use of the words 'NUT CARAMELS' on the package to describe its contents is false or misleading is in my opinion without

merit. The use of the word 'NUT' in this description of the candy enclosed in said package gives clear notice to any prospective purchaser that said candy contains nuts. Obviously it cannot be said that any person allergic to nuts of any kind would be led by said description to believe he was buying candy which did not contain nuts of some kind.

"The net weight and ingredient statements are printed on the label in a distinctive silver color that is not employed for any other statements appearing on said package. Both statements are printed in the same size type which the evidence establishes as being easily readable at a distance of approximately 29 inches by the average person. The act prescribes no minimum specific standard as to how prominent such statements should be. It would seem that the requirements of said section 343(f) are met in a particular case if such statements are prominent enough to be seen and understood by the ordinary individual who is interested in discovering and learning the information disclosed thereby, and who makes a minimum examination of the package to determine its net weight and the ingredients of the candy contained in said package.

"In my opinion the Government has failed to establish by a fair preponderance of the evidence that these requirements are not met by the packages involved here. The case of *United States v. 70 Gross Bottles*, 1952, D.C.S.D. Ohio, 3 Kleinfeld & Dunn, The Federal Food, Drug and Cosmetic Act 1951-1952, cited and relied upon by the Government, is clearly distinguishable on its facts. In that case the Court found the product involved to be misbranded because the word 'saccharine' appearing in the ingredient statement on the label 'is so small that one is unable to read it without the aid of a magnifying glass'. In such a situation it was clearly not likely to be read by the ordinary individual under customary conditions of purchase and use.

"For the foregoing reasons I conclude that said candy was not misbranded when introduced into interstate commerce within the meaning of Title 21 U.S.C.A. § 343(a) and § 343(f), that said libel should be dismissed and that said packages should be returned to the claimant, James O. Welch Company.

"An appropriate order will be entered."

Pursuant to the above opinion the court entered an order on 3-30-62, dismissing the libel proceedings.

28230. Cowboy candy bar. (F.D.C. No. 47622. S. No. 10-896 T.)

QUANTITY: 38 cases, each containing 18 boxes of 24 individually wrapped candy bars, at Meadville, Pa.

SHIPPED: 4-13-62, from Elizabeth, N.J., by Euclid Candy Co., subsidiary of Terry Candy Co.

LABEL IN PART: (Candy bar) "Euclids Cowboy Cocoanut Candy Bar Euclid Candy Co., Subsidiary of Terry Candy Co. Elizabeth, N.J. Ingredients * * * Imitation Vanilla Flavor * * * Net Wt. 1¼ Oz."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight. The quantity of contents statement was inconspicuous, being partially obscured, and sometimes totally hidden, between the folds of the wrapper. The quantity of contents statement was printed on the end of the candy bar, in an extremely small, partly blurred type, which was partly illegible.

LIBELED: 6-4-62, W. Dist. Pa.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents; and 403(f)—the information required under 403(e) (2), to appear on the label, namely, the quantity of contents statement, was not prominently placed thereon with such conspicuousness (as compared with other words and statements on the label) as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 7-12-62. Default—destruction.

28231. Tootsie Rolls (candy). (F.D.C. No. 47606. S. No. 32-716 T.)

QUANTITY: 52 cartons, each containing 24 1 $\frac{3}{8}$ -oz. individually wrapped candy bars, at Phoenix, Ariz.

SHIPPED: 1-30-62, from Los Angeles, Calif., by Sweets Company of America, Inc.

LABEL IN PART: (Candy wrapper) "Chocolate Tootsie Roll * * * Ingredients: * * * The Sweets Company of America, Inc. Hoboken, N.J."

LIBELED: 5-17-62, Dist. Ariz.

CHARGE: 402(a) (3)—contained rodent hairs when shipped.

DISPOSITION: 7-9-62. Default—destruction.

28232. Licorice candy. (F.D.C. No. 47185. S. No. 13-909 T.)

QUANTITY: 86 cases, 16 pkgs. each, containing 6 individual bars each, at Chicago, Ill.

SHIPPED: Between 11-27-61 and 1-19-62, from St. Louis, Mo., by Switzer's Licorice Co.

LABEL IN PART: (Pkg.) "6 Pack Switzer's Old Fashioned Licorice"; (individual bar) "Calorie Conscious? Switzer's Licorice Switzer's Licorice Company, St. Louis, Mo. * * * Net Wt. 1 $\frac{3}{16}$ Oz."

RESULTS OF INVESTIGATION: The candy bars were packed face up in an open tray type package which was wrapped and sealed in cellophane so that it could not be opened at the time of purchase and the mandatory information which was printed on the back of each candy bar, was not visible because of the cardboard back of the package.

LIBELED: 3-1-62, N. Dist. Ill.

CHARGE: 403(a)—when shipped, the label statement "Calorie Conscious?" was false and misleading in that it suggested and implied that the article was of unusual value for calorie controlled diets because it was low in calories; 403(f)—the place of business of the manufacturer, packer, or distributor, an accurate statement of the quantity of the contents, the common or usual name of each ingredient, and the declaration of preservative, were not prominently placed on the article with such conspicuousness (as compared with other words and statements on the label) as to render such information likely to be read by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 6-20-62. Consent—claimed by Switzer Licorice Co., and delivered to a charitable institution.

28233. Terry's candy corn. (F.D.C. No. 47584. S. No. 43-955 T.)

QUANTITY: 59 cases, each containing 100 boxes, at Philadelphia, Pa.

SHIPPED: Between 3-27-62 and 4-17-62, from Elizabeth, N.J., by Terry Candy Co.

LABEL IN PART: (Box) "Terry's Candy Corn Net Wt. 1 $\frac{1}{4}$ Oz. * * * Terry Candy Co., Elizabeth, New Jersey."

RESULTS OF INVESTIGATION: The manufacturer's name and address, the statement of ingredients, and declaration of artificial color and flavor were partly illegible due to the blurring of the print.

LIBELED: 5-8-62, E. Dist. Pa.

CHARGE: 403(f)—when shipped, the information required under 403 (e) (1), (i) (2), and (k), to appear on the label, namely, the name and address of the manufacturer, packer, or distributor, the common or usual name of each ingredient, and the declaration of artificial flavoring and coloring, was not prominently placed thereon with such conspicuousness (as compared with other words and statements on the label) as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 8-1-62. Default—delivered to charitable institutions.

28234. Mint lozenges. (F.D.C. No. 46432. S. No. 96-558 R.)

QUANTITY: 224 cases, each containing 24 bags, at Philadelphia, Pa.

SHIPPED: Between 7-21-61 and 8-18-61, from Skokie, Ill., by Farley Candy Co.

LABEL IN PART: (Bag) "Farley's Mint Lozenges Made by Farley Candy Co., Skokie, Ill. * * * 11 Oz. Net Wt."

RESULTS OF INVESTIGATION: Examination showed the article to be white candy mints in clear plastic bags. The mandatory information was printed in white ink and was inconspicuous against the white candy in the background.

LIBELED: 8-31-61, E. Dist. Pa.; amended libel 9-11-61.

CHARGE: 403(f)—when shipped, the information required under 403 (e) (1), (e) (2), and (i) (2), to appear on the label, namely, the name and address of the manufacturer, packer, or distributor, the quantity of contents, and ingredient statements, was not prominently placed thereon with such conspicuousness (as compared with other words and statements on the label) as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 1-31-62. Consent—delivered to a charitable institution.

28235. Nougat candy. (F.D.C. No. 47576. S. No. 56-081 T.)

QUANTITY: 38 ctns., 24 pkgs. each, of 6 boxes each, at Newark, N.J.

SHIPPED: 3-12-62 and 4-5-62, from New York, N.Y., by Ferrara Confectionery Co.

LABEL IN PART: (Ctn.) "24 pkgs. 6 units * * * Torone Ferrara Nougat Candy"; (pkg.) "Ferrara Delicious Nougat Candy Ass't Flavors Ingredients * * * Net Weight 3 $\frac{1}{5}$ Oz. * * * Manufactured by Ferrara Confectionery Co., New York 13, N.Y."; (box) (labeled essentially the same as pkg. label except for quantity of contents statement "Net Weight 14 $\frac{1}{4}$ Grams" and name of flavor of candy within the box).

RESULTS OF INVESTIGATION: Examination showed the article to be short weight.

LIBELED: 5-7-62, Dist. N.J.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents, since the label statement on package of 6 boxes was inaccurate and the label statement of quantity of contents on individual boxes was not expressed in terms of weight generally used by consumers to express quantity of such food.

DISPOSITION: 6-15-62. Default—delivered to charitable institutions.

SUGAR AND RELATED PRODUCTS

28236. Sugar and dried Great Northern beans. (F.D.C. No. 47264. S. Nos. 61-449/50 T.)

QUANTITY: 68 60-lb. bales, 6 bags each, of sugar, and 71 100-lb. bags of beans, at Eldorado, Ill., in possession of Federal Wholesale Corp.

SHIPPED: 10-27-61 and 1-19-62, from Morrill, Nebr., and Oakland, Calif.

LIBELED: 3-23-62, E. Dist. Ill.

CHARGE: 402(a)(3)—contained rodent urine, rodent hairs, and rodent excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-8-62. Consent—claimed by Federal Wholesale Corp. Segregated; 29 bales of sugar and 71 bags of beans destroyed.

28237. Honey. (F.D.C. No. 47378. S. No. 51-875 T.)

QUANTITY: 45 cases, 12 plastic squeeze btls. each, at Renton, Wash.

SHIPPED: 9-27-61, from Belgrade, Mont., by A. H. Meyer & Sons.

LABEL IN PART: (Btl.) "Golden Montana Honey Pure U.S. Fancy Clover Blossom Net Weight 12 Ounces * * * Packed by A. H. Meyer & Sons, Belgrade, Montana."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 3-12-62, W. Dist. Wash.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 4-16-62. Default—delivered to a public institution.

28238. Honey. (F.D.C. No. 47513. S. No. 33-988 T.)

QUANTITY: 62 cases of 24 jars each, at St. Paul, Minn.

SHIPPED: 3-13-62, 3-31-62, and 4-11-62, from Sioux City, Iowa, by Robb-Ross Co., Inc.

LABEL IN PART: (Jar) "Fairway Pure Honey U.S. Grade A Fancy White Net Wt. 1 Lb. Packed For Fairway Foods, Inc. St. Paul Minn. Fargo, N.D. 0253."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 5-31-62, Dist. Minn.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 7-17-62. Default—delivered to charitable institutions.

28239. Fountain sirup. (F.D.C. No. 44990. S. No. 35-995 R.)

QUANTITY: 20 ctns., totaling 1,080 lbs., at Brooklyn, N.Y.

SHIPPED: On 9-10-60, the article was delivered to a ship pier in Brooklyn, N.Y., for shipment to Iceland.

RESULTS OF INVESTIGATION: Inspection showed that the article had been submerged in polluted river water. The contamination occurred as a result of a storm on 9-13-60, which flooded the pier at Brooklyn, N.Y., where the article was stored.

LIBELED: 10-13-60, E. Dist. N.Y.

CHARGE: 402(a)(4)—held under insanitary conditions while in interstate commerce.

DISPOSITION: 7-12-61. Consent—destruction.

28240. Ice cream topping. (F.D.C. No. 48083. S. No. 62-070 T.)

QUANTITY: 39 cases, each containing 12 jars, at South Gardiner, Maine.

SHIPPED: 6-13-62, from Salem, Mass., by Snow Crest Beverages, Inc.

LABEL IN PART: (Jar) "Snow Crest Pineapple Ice Cream Topping Large Economy Size * * * Mfd. By Snow Crest Bev. Inc. Salem, Mass. Net Wt. 14 Ozs."

RESULTS OF INVESTIGATION: Examination showed the article to be short weight.

LIBELED: 8-31-62, Dist. Maine.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 9-18-62. Default—delivered to a charitable institution.

DAIRY PRODUCTS

BUTTER

28241. Butter. (F.D.C. No. 46681. S. Nos. 13-254/5 R, 58-936 R.)

INFORMATION FILED: 2-21-62, N. Dist. Ill., against Green Creamery, Inc., Chicago, Ill., and George H. Zentner, buttermaker.

ALLEGED VIOLATION: On 1-27-61 and 4-6-61, while quantities of butter were being held for sale after shipment in interstate commerce, the defendants caused the addition of water to the article which act resulted in the article being adulterated.

On 1-27-61, while a portion of the article was being held for sale after shipment in interstate commerce, the defendants caused such portion of the article to be packed in containers labeled in part: "FRESH VERIGOOD Brand Creamery BUTTER Salted 1-Lb., Net Weight," which act resulted in such portion being misbranded.

CHARGE: 402(b)(2)—while held for sale, water had been substituted in part for butter; 402(b)(4)—water had been added to the article and mixed and packed therewith so as to increase its bulk and weight and reduce its quality; and 403(e)(2)—the container of the "Verigood Brand" of the article bore the statement "1-Lb. Net Weight" which statement was inaccurate as applied to a product which contained less than 1 pound of the article.

PLEA: Guilty to 3 counts and nolo contendere to 1 count.

DISPOSITION: 4-30-62. Each defendant—\$100 fine, plus costs.

CHEESE

28242. Cottage cheese. (F.D.C. No. 47625. S. No. 23-922 T.)

QUANTITY: 670 16-oz. ctns. at El Paso, Tex., in possession of Price's Creameries, Inc.

SHIPPED: 5-9-62, from Portales, N. Mex.

LABEL IN PART: (Ctn. lid) "Net Wt. 16 Oz. Meadow Gold Slim Cheez * * * Cottage Cheese Lower in Calories Small Curd Uncreamed Low-Calorie Cottage Cheese."

RESULTS OF INVESTIGATION: The article was manufactured by the dealer from cottage cheese and a cream product containing 6 percent fat which was shipped in bulk as described above.

LIBELED: 5-31-62, W. Dist. Tex.

CHARGE: 403(a)—while held for sale, the label of the article contained false and misleading representations that the article was uncreamed and was cottage cheese; 403(a)—the name of the article "Slim Cheez" and other statements in its label contained false and misleading representations that the article was a low-calorie cottage cheese and was lower in calories; and 403(g)(1)—the article failed to conform to the definition and standard of identity of cottage cheese, in that it contained an added cream product containing 6 percent fat, an ingredient not permitted by the definition and standard.

DISPOSITION: 6-4-62. Consent—delivered to a public institution for use as animal feed.

28243. Provolone cheese. (F.D.C. No. 47159. S. Nos. 43-173 T, 43-176 T.)

QUANTITY: 36 ctns., each containing 6 individually wrapped cheeses, at Philadelphia, Pa.

SHIPPED: 12-5-61, from Plymouth, Wis., by Passini Cheese Co.

LABEL IN PART: "New Yorker Rindless Provolone Cheese * * * Distributed by New Yorker Cheese Co. Philadelphia, Pa."

LIBELED: 2-27-62, E. Dist. Pa.

CHARGE: 403(g)(1)—when shipped, the article failed to conform to the definition and standard of identity for provolone cheese since the article contained in its solids less than 45 percent of milk fat.

DISPOSITION: 8-12-62. Default—destruction.

MISCELLANEOUS DAIRY PRODUCT

28244. Pratt's Dairy Hi-Trate. (F.D.C. No. 47008. S. No. 33-611 T.)

QUANTITY: 64 50-lb. bags at Minneapolis, Minn.

SHIPPED: 9-6-61, from Danville, Ky.

RESULTS OF INVESTIGATION: Analysis showed that the article contained less than 50 percent of the declared amount of vitamin D₂.

LIBELED: 2-2-62, Dist. Minn.

CHARGE: 402(b)(1)—while held for sale, the valuable constituent, namely, vitamin D₂, had been in part omitted or abstracted from the article; and 403(a)—the label statement "80,000 U.S.P. Units/LB" was false and misleading.

DISPOSITION: 3-20-62. Default—delivered to a public institution for use as animal feed.

EGGS

28245. Frozen eggs. (F.D.C. No. 47485. S. No. 71-115 T.)

QUANTITY: 24 30-lb. cans, at El Paso, Tex.

SHIPPED: The article was shipped in the form of shell eggs from various producers in Texas, Nebraska, and Arkansas, sometime prior to 4-16-62, to El Paso, Tex., where the article was packed in the form of frozen eggs.

LIBELED: 5-8-62, W. Dist. Tex.

CHARGE: 402(a)(3)—contained decomposed eggs while held for sale.

DISPOSITION: 6-29-62. Default—destruction.

28246. Frozen eggs. (F.D.C. No. 47681. S. No. 8-899 T.)

QUANTITY: 300 30-lb. unlabeled and labeled cans, at Tiverton, R.I.

SHIPPED: 6-6-62, from Fall River, Mass., by Alta Farms Co.

LABEL IN PART: (Can) "Alta Farms Co. 1485 Locust St.—Fall River, Mass. Wholesale Shell Eggs Fresh Brokeouts & Frozen * * * Frozen Whole Eggs."

LIBELED: 6-21-62, Dist. R.I.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 7-16-62. Default—destruction.

FISH AND SHELLFISH

28247. Frozen haddock fillets. (F.D.C. No. 46570. S. Nos. 59-623/4 R.)

QUANTITY: 197 cases, 12 1-lb. ctns. each, at Arlington, Wash.

SHIPPED: 3-31-61, from Boston, Mass.

LABEL IN PART: (Ctn.) "Rich Plan Fresh Frozen Fillet of Skinless Haddock * * * Distributed by Rich Plan Corporation * * * Dallas, Tex. Grade A Fancy Certificated Premium Quality."

RESULTS OF INVESTIGATION: Examination showed that the article was boneless fish fillets from which the skin had not been removed.

LIBELED: 10-13-61, W. Dist. Wash.

CHARGE: 402(b)(2)—while held for sale, skin-on fish fillets had been substituted in whole or in part for skinless fish fillets; and 403(a)—the label statement "skinless" was false and misleading as applied to a product consisting of fish fillets with the skin on; and the label statements "Grade A Fancy" and "Certificated Premium Quality" were false and misleading as applied to a product which was not an officially certified Grade A premium quality product.

DISPOSITION: 11-6-61. Consent—claimed by Rich Plan Corp. and relabeled.

28248. Frozen whitefish, frozen smoked sable fish, frozen shad. (F.D.C. No. 45079. S. Nos. 32-542/4 R.)

QUANTITY: 8 125-lb. boxes of whitefish, 13 24-lb. boxes of smoked sable fish, and 21 185-lb. boxes of shad, at Brooklyn, N.Y.

SHIPPED: Between 6-25-56 and 11-4-57, from Chicago, Ill., Alaska, and San Francisco, Calif.

LIBELED: 11-23-60, E. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed fish while held for sale.

DISPOSITION: 2-9-61. Default—destruction.

28249. Canned tuna. (F.D.C. No. 47626. S. No. 4-439 T.)

QUANTITY: 45 cases, 6 4-lb. 2½-oz. cans each, at Morgantown, W. Va.

SHIPPED: Unknown date prior to 10-16-61, from New York, N.Y.

LIBELED: 6-5-62, N. Dist. W. Va.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 6-20-62. Default—destruction.

28250. Crabmeat. (F.D.C. No. 43765. S. Nos. 46-039/40 R.)

QUANTITY: 216 5-lb. bags of special crabmeat, 145 5-lb. bags of claw crabmeat, and 77 lbs. of special crabmeat in 4 pliofilm bags, at Braddock, N.J.

SHIPPED: 7-14-61, from Perry, Fla., by Metcalf & Sons.

LABEL IN PART: (Bag) "Metcalf, Perry, Fla. 108-C Fresh Crab Meat for Process Only Packed for Mrs. Paul's Kitchens."

LIBELED: On or about 7-20-61, Dist. N.J.

CHARGE: 402(a)(4)—packed under insanitary conditions.

DISPOSITION: 9-29-61. Default—destruction.

28251. Crabmeat. (F.D.C. No. 43764. S. Nos. 58-335/6 R.)

QUANTITY: 11 boxes, 15 5-lb. pkgs. each, at Braddock, N.J.

SHIPPED: 6-23-61, from Havana, Fla., by Havana Crabmeat Co., Inc.

LABEL IN PART: (Pkg.) "Havana Crab Meat Plant Havana, Fla. 105-C Fresh Crabmeat for Process Only Packed for Mrs. Paul's Kitchens."

LIBELED: On or about 6-29-61, Dist. N.J.

CHARGE: 402(a)(4)—packed under insanitary conditions.

DISPOSITION: 9-29-61. Default—destruction.

FRUITS AND VEGETABLES

CANNED FRUIT

28252. Maraschino cherries. (F.D.C. No. 47301. S. No. 12-259 T.)

QUANTITY: 21 cases, 12 jars each, at Milwaukee, Wis.

SHIPPED: 2-22-62, from Chicago, Ill., by Cherry Lane Foods, Inc.

LABEL IN PART: (Jar) "Regala Brand Net Wt. 1 Lb. 12 Oz. Maraschino Cherries in Heavy Syrup * * * Packed by Cherry Lane Foods, Inc., Chicago, Ill."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 4-13-62, E. Dist. Wis.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 5-8-62. Consent—claimed by Cherry Lane Foods, Inc., and brought into compliance with the law.

28253. Maraschino cherries. (F.D.C. No. 47269. S. Nos. 43-654/5 T.)

QUANTITY: 245 cases, 12 jars each, at Sunbury, Pa.

SHIPPED: 2-26-62 and 3-7-62, from Ripley, N.Y., by R. C. McAteer Co., Inc.

LABEL IN PART: (Jar) "Red Rose Brand Maraschino Cherries artificially Colored and Flavored, Contains * * * Net Wt. 10½ Oz. Avd. Packed by R. C. McAteer Co., Inc. Ripley, New York."

RESULTS OF INVESTIGATION: Examination showed the article to be short weight.

LIBELED: 3-29-62, M. Dist. Pa.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 5-9-62. Consent—claimed by the shipper and released under bond for relabeling.

FROZEN FRUIT

28254. Frozen strawberries. (F.D.C. No. 46511. S. No. 47-701 T.)

QUANTITY: 378 cases, 24 10-oz. pkgs. each, at Van Buren, Ark.

SHIPPED: 8-14-61 and 8-29-61, from Stilwell, Okla.

LIBELED: 10-23-61, W. Dist. Ark.

CHARGE: 402(a) (3)—contained decomposed and moldy strawberries while held for sale.

DISPOSITION: 6-5-62. Consent—claimed by Stilwell Frozen Foods, Inc., Stilwell, Okla., and segregated for destruction of the unfit portion.

28255. Frozen strawberries. (F.D.C. No. 46082. S. Nos. 85-057/8 R. 87-081 R.)

QUANTITY: 3,464 cases, 24 10-oz. pkgs. each, at Van Buren, Ark.

SHIPPED: 5-9-61 and 5-10-61, from Stilwell, Okla.

LIBELED: 7-13-61, W. Dist. Ark.

CHARGE: 402(a) (3)—contained decomposed and moldy strawberries while held for sale.

DISPOSITION: Stilwell Frozen Foods, Inc., Stilwell, Okla., claimant, intervened and denied that the article was adulterated. Thereafter, on 6-5-62, claimant having consented, the court entered a decree of condemnation and ordered the article released to the claimant to be brought into compliance with the law by segregation and destruction of the unfit portion.

28256. Frozen strawberries. (F.D.C. No. 45844. S. Nos. 54-904 R, 66-545 R.)

QUANTITY: 216 10-lb. cans and 141 30-lb. cans at Rogers, Ark.

SHIPPED: 5-24-61, from Stilwell, Okla.

RESULTS OF INVESTIGATION: Strawberries were shipped as described above to Cannery, Inc., Rogers, Ark., where they were mixed and packed with approximately 35 crates of local berries.

LIBELED: 6-21-61, W. Dist. Ark.

CHARGE: 402(a) (3)—while held for sale, contained decomposed strawberries.

DISPOSITION: On 8-8-61, Cannery, Inc., claimant, filed an answer denying that the article was adulterated. Thereafter, on 4-27-62, the claimant having consented, the court entered a decree of condemnation. The article was segregated and the adulterated portion consisting of 66 30-lb. cans and 107 10-lb. cans was destroyed.

VEGETABLES AND VEGETABLE PRODUCTS

28257. Canned green beans. (F.D.C. No. 47525. S. No. 70-888 T.)

QUANTITY: 199 cases, 24 cans each, at Brenham, Tex.

SHIPPED: 12-23-61, from Springdale, Ark., by Cannery, Inc.

LABEL IN PART: (Can) "Glen Park Short Cut Green Beans Net Weight 15½ Oz. Avd. Distributed by Federated Foods, Inc., San Francisco, * * * Chicago."

LIBELED: 6-5-62, W. Dist. Tex.

CHARGE: 403(h) (1)—when shipped, the article fell below the standard of quality for canned cut green beans, since the article contained more than 6 unstemmed units per 12 oz. of drained weight, and its label failed to bear a statement that it fell below such standard.

DISPOSITION: 8-1-62. Default—delivered to a public institution.

28258. Canned green beans. (F.D.C. No. 47478. S. No. 28-510 T.)

QUANTITY: 90 cases, 24 cans each, at St. Joseph, Mo.

SHIPPED: 7-24-61, from Muskogee, Okla., by Griffin Manufacturing Co.

LABEL IN PART: (Can) "Raider Short Cut Green Beans Contents 15½ Oz. Avoir. * * * Griffin Manufacturing Co. Packers and Distributors, Muskogee, Okla."

LIBELED: On or about 5-3-62, W. Dist. Mo.

CHARGE: 402(a) (3)—contained insects when shipped.

DISPOSITION: 6-20-62. Default—destruction.

28259. Dried red beans. (F.D.C. No. 46428. S. Nos. 50-556/7 R, 51-852/5 R.)

QUANTITY: 5,452 100-lb. bags at Buhl, Idaho.

SHIPPED: Between 6-5-61 and 6-22-61, from Wenatchee, Wash., by Northwest Pea & Bean Co.

LABEL IN PART: (Bag) "Quincy Brand Washington Beans Small Red. Packed by Mid-Valley Warehouse Co. Quincy, Wash."

LIBELED: 9-6-61, Dist. Idaho.

CHARGE: 402(a) (2) (B)—the article was a raw agricultural commodity and, when shipped, contained a pesticide chemical, namely, Dieldrin, which was unsafe within the meaning of 408(a) since the quantity of such pesticide chemical on the article was not within the limits of the tolerance prescribed by regulations.

DISPOSITION: 12-15-61. Consent—claimed by J. T. Shields, Buhl, Idaho, and denatured for seed use.

28260. Canned mushrooms. (F.D.C. No. 47289. S. No. 49-680 T.)

QUANTITY: 23 cases, 6 cans each, at San Francisco, Calif.

SHIPPED: 9-15-61, from Toronto, Canada, by Lee's Food Products, Ltd.

LABEL IN PART: (Can) "China Lily Brand Sliced Mushrooms * * * Manufactured in Canada By Lee's Food Products Limited Toronto, Ontario 105 Fluid Ozs."

RESULTS OF INVESTIGATION: Examination showed the article to be short volume and short drained weight.

LIBELED: 4-6-62, N. Dist. Calif.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents; and 403(h) (2)—the article fell below the standard of fill of container for canned mushrooms as prescribed by regulations.

DISPOSITION: 5-22-62. Consent—claimed by Wing Sing Chong Co., Inc., San Francisco, Calif., and relabeled.

28261. Canned sauerkraut. (F.D.C. No. 46495. S. No. 51-545 T.)

QUANTITY: 64 cases, 24 cans each, at Boise, Idaho.

SHIPPED: 8-4-61, from Ogden, Utah, by Storey Food Products Co.

LABEL IN PART: (Can) "Big S Northern Long Shred Sauerkraut Contents 1 Lb. Storey Food Products Company Growers-Packers-Distributors Ogden, Utah."

LIBELED: 10-12-61, Dist. Idaho.

CHARGE: 402(a)(3)—contained maggot and other insect fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 7-25-62. Default—destruction.

TOMATOES AND TOMATO PRODUCTS

28262. Canned tomatoes. (F.D.C. No. 46850. S. No. 9-976 T.)

QUANTITY: 498 cases, 24 1-lb. 12-oz. cans each, at Albany, N.Y.

SHIPPED: 9-26-61, from Hurlock, Md., by Albert W. Sisk & Sons.

LABEL IN PART: (Can) "Brand De Cecco Selected Italian Style Peeled Tomatoes Net Weight 1 Lb. 12 Oz. Packed by John N. Wright Jr. Hurlock, Md."

LIBELED: 12-14-61, N. Dist. N.Y.

CHARGE: 402(a)(3)—contained *Drosophila* fly eggs and maggots when shipped.

DISPOSITION: 6-12-62. Consent—claimed by John N. Wright, Jr., Inc., Hurlock, Md. Segregated; 50 cases destroyed.

28263. Canned tomatoes. (F.D.C. No. 47139. S. Nos. 7-242/3 T.)

QUANTITY: 595 cases, 24 1-lb. cans each, and 148 cases, 24 1-lb. 12-oz. cans each, at Raynham, Mass.

SHIPPED: 12-7-61, from Hickman, Md., by H. H. & B. H. Nuttle Canning Co.

LABEL IN PART: (Can) "Clover Red Ripe Tomatoes * * * Net Weight 1 Lb. [or "1 Lb. 12 Oz."] Packed For R. F. Owens Co. Raynham, Mass."

LIBELED: 2-14-62, Dist. Mass.

CHARGE: 402(a)(3)—contained *Drosophila* fly eggs and maggots when shipped.

DISPOSITION: 4-2-62. Consent—claimed by H. H. & B. H. Nuttle Canning Co. Segregated; 284 cases and 10 cans destroyed.

28264. Tomato catsup. (F.D.C. No. 45885. S. No. 69-925 R.)

QUANTITY: 599 cases, containing 24 14-oz. btls., at Philadelphia, Pa.

SHIPPED: 3-30-61, from Bridgeton, N.J., by P. J. Ritter Co.

LABEL IN PART: (Btl.) "Ritter Tomato Catsup Net Contents 14 Oz. Avoir. Sold and Guaranteed by The P. J. Ritter Co., Bridgeton, N.J., U.S.A."

LIBELED: 5-10-61, E. Dist. Pa.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: On or about 6-27-61, P. J. Ritter Co., claimant, filed an answer to the libel and thereafter the Government filed a motion to strike certain portions of the claimant's answer. On 4-19-62, the court handed down the following opinion and order:

GRIM, Sr. J.: "This is a proceeding for the seizure of catsup under the Federal Food, Drug, and Cosmetic Act, enacted in 1938, 21 U.S.C. § 301 et seq. The libel avers that the catsup is adulterated within the meaning of section 402(a)(3) of the Act, 21 U.S.C. § 342(a)(3), 'in that it consists wholly or in part of a decomposed substance by reason of the presence therein of decomposed tomato material.' The answer of P. J. Ritter Company avers that it is the owner, manufacturer, and claimant of the catsup, denies that the catsup is adulterated within the meaning of section 402(a)(3), or that it is 'unfit for food, or harmful to health,' and avers that the decomposed tomato material is known as rot, 'which is present in varying degrees in all processed tomato products' and 'represents a breakdown of tomato tissue caused by mold.' The answer then sets up the government's technique for estimating the amount of mold or rot, its tolerances for determining how much rot or mold can be present without rendering the material unfit for food or injurious

to health, and the fact that the government is in the process of developing new tolerances to meet the situation resulting from new manufacturing processes known as comminution and homogenization.

"The government has moved under F.R. Civ. P. 12(f) to strike, as immaterial, that part of the answer which denies that the catsup is unfit for food or harmful to health and which deals with standards of and tolerances for, rot or mold. The government contends that these two grounds are not defenses under § 402(a) (3), which condemns food as adulterated:

'(3) if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food.'

"The meaning of this provision, the government contends, is that food is adulterated if it consists partly or entirely of a filthy substance, of a putrid substance, or of a decomposed substance, without regard to whether or not the presence of such unlovely substance renders it unfit for food. Defendant contends that the provision means that food is adulterated only if the food is rendered unfit for food, i.e., injurious to health by the presence of a filthy, a putrid, or a decomposed substance, or is rendered unfit for food in some other way.

"The government indeed has respectable authority for its contention: *United States v. 499 Cases Tomato Paste*, 212 F. 2d 567 (2d Cir. 1954) (dissent by Judge Frank); *Bruce's Juices, Inc. v. United States*, 194 F. 2d 935 (5th Cir. 1952); *Anderson and Co. v. United States*, 284 Fed. 935 (9th Cir. 1922); *Salamonic Packing Co. v. United States*, 165 F. 2d 205 (8th Cir. 1948); *United States v. 1851 Cartons, etc., Frosted Fish*, 146 F. 2d 760 (10th Cir. 1945); see also Maris, J., in *United States v. 133 Cases of Tomato Paste*, 22 F. Supp. 515 (E.D. Pa. 1938).

"The most recent case in a Court of Appeals, however, *United States v. 1500 Cases Tomato Paste*, 236 F. 2d 208 (7th Cir. 1956), refused to follow the earlier cases, the court there saying, 236 F. 2d at p. 210:

'We find it impossible to agree with the accepted interpretation of Section 342(a) (3), 21 U.S.C.A., without ignoring completely the word "otherwise" therein.'

"Since this court, speaking by the authoritative voice of Judge Maris, has construed the provision as condemning food as adulterated without regard to whether or not it is unfit for food, *United States v. 133 Cases of Tomato Paste*, *supra*, the ruling of Judge Maris in that case will be followed here.

ORDER

"AND NOW, April 19, 1962, the government's motion to strike portions of the answer is granted."

On 5-9-62, the claimant having consented to the entry of a decree, judgment was entered providing for condemnation of the article and its release under bond for segregation and destruction of certain codes of the article.

NUTS AND NUT PRODUCTS

28265. Shelled peanuts. (F.D.C. No. 46655. S. No. 80-448 R.)

INFORMATION FILED: 1-9-62, M. Dist. Ga., against Houston Peanut Co., Sylvester, Ga.

SHIPPED: 6-9-61, from Georgia to Massachusetts.

CHARGE: 402(a) (4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 6-25-62. \$250 fine.

28266. Shelled peanuts. (F.D.C. No. 47505. S. No. 32-596 T.)

QUANTITY: 18 100-lb. bags at Los Angeles, Calif.

SHIPPED: Between 12-4-61 and 4-5-62, from Norfolk, Franklin, and Suffolk, Va.

LIBELED: 5-21-62, S. Dist. Calif.

CHARGE: 402(a)(3)—contained moth larvae and insect excreta while held for sale.

DISPOSITION: 6-18-62. Default—destruction.

28267. Unshelled peanuts and mixed nuts. (F.D.C. No. 46354. S. Nos. 21-705/6 T.)

QUANTITY: 8 90-lb. bags of peanuts and 21 100-lb. bags of mixed nuts at Salt Lake City, Utah, in possession of Utah Wholesale Grocery Co.

SHIPPED: 11-9-60 and 11-15-60, from Suffolk, Va., and Los Angeles, Calif.

LIBELED: 10-6-61, Dist. Utah.

CHARGE: 402(a)(4)—held under insanitary conditions.

DISPOSITION: 12-8-61. Default—delivered to a public institution for use as animal feed.

28268. Shelled pecans. (F.D.C. No. 46958. S. No. 7-693 T.)

QUANTITY: 89 cases, 24 cans each, at Boston, Mass.

SHIPPED: 11-6-61 and 11-21-61, from Chicago, Ill., by Douglas Food Corp.

LABEL IN PART: (Can) "S. S. Pierce Co. Red Label Brand Shelled Pecans Packed For S. S. Pierce Co. Boston, Mass. * * * Net Wt. 3 Oz."

RESULTS OF INVESTIGATION: Examination showed the article to be short weight.

LIBELED: 2-2-62, Dist. Mass.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 3-20-62. Consent—claimed by Douglas Food Corp.; repacked and relabeled.

28269. Shelled pecans. (F.D.C. No. 47239. S. No. 45-475 T.)

QUANTITY: 50 30-lb. ctns., at St. Louis, Mo.

SHIPPED: 1-29-62, from Searcy, Ark., by Thompson Co., Inc.

LABEL IN PART: (Ctn.) "Thompson's 'Dixie Nuggets' Select Native Pecans * * * Packed by The Thompson Co., Inc., Searcy, Ark 30 lbs. Net Wt. * * * Medium Pieces."

LIBELED: 3-12-62, E. Dist. Mo.

CHARGE: 402(a)(3)—when shipped, contained rodent hair fragments and *E. coli*, an organism indicating pollution of fecal origin.

DISPOSITION: 4-11-62. Consent—claimed by Thompson Co., Inc.; reconditioned by washing and drying.

28270. Shelled pecans. (F.D.C. No. 47273. S. No. 47-799 T.)

QUANTITY: 10 cases, 24 cans each, at Memphis, Tenn.

SHIPPED: 1-2-62 and 1-31-62, from Suffolk, Va., by Planters Peanuts.

LABEL IN PART: (Can) "Planters Shelled Pecans Raw Shelled Unsalted * * * Net Weight 5 Oz. * * * Mfg. by Planters Nut & Chocolate Co. Suffolk, Va., Wilkes-Barre, Pa. San Francisco, Calif."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 4-2-62, W. Dist. Tenn.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 5-7-62. Default—delivered to charitable institutions.

28271. Shelled pecans. (F.D.C. No. 47212. S. No. 27-483 T.)

QUANTITY: 15 30-lb. cases at Fort Worth, Tex.

SHIPPED: 12-12-61, from Tyler, Tex., by Woldert Co., to Kansas City, Mo., and then reshipped to Fort Worth, Tex.

LABEL IN PART: (Case) "Wolco Brand Premium Shelled Pecans Small Pieces The Woldert Co., Tyler, Texas."

LIBELED: On or about 3-19-62, N. Dist. Tex.

CHARGE: 402(a)(3)—contained *E. coli*; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 4-30-62. Default—destruction.

28272. Shelled pecans. (F.D.C. No. 47229. S. No. 27-711 T.)

QUANTITY: 6 30-lb. cases at Kansas City, Kans.

SHIPPED: 12-12-61, from Tyler, Tex., by Woldert Co., to Kansas City, Mo., and from there to Kansas City, Kans.

LABEL IN PART: (Case) "Wolco Brand Premium Shelled Pecans Small Pieces The Woldert Co., Tyler, Texas 60121."

LIBELED: 3-9-62, Dist. Kans.

CHARGE: 402(a)(3)—contained *E. coli*; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 5-9-62. Default—destruction.

28273. Shelled pecans. (F.D.C. No. 47046. S. No. 38-717 T.)

QUANTITY: 31 30-lb. ctns. at New Orleans, La.

SHIPPED: 1-15-62 and 1-24-62, from Gulfport, Miss., by Williams Pecan Products Co.

LABEL IN PART: (Ctn.) "Wilco Shelled Pecans Williams Pecan Products Co. Gulfport, Miss."

LIBELED: 2-23-62, E. Dist. La.

CHARGE: 402(a)(3)—contained *E. coli*; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 5-17-62. Default—destruction.

28274. Shelled pecans. (F.D.C. No. 46688. S. No. 11-869 R.)

INFORMATION FILED: 4-9-62, N. Dist. Ill., against J. Barsotti & Co., Inc., Chicago, Ill., and Paul J. Brichetto, president.

ALLEGED VIOLATION: Between 12-3-60 and 12-9-60, while quantities of unshelled pecans were being held for sale after shipment in interstate commerce, the defendants caused the article to be shelled, processed, and packed into bulk cartons under insanitary conditions, which acts resulted in the article being adulterated.

CHARGE: 402(a)(3)—contained *E. coli*; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 6-14-62. Corporation—\$500 fine; Brichetto—\$100 fine; plus costs.

28275. Unshelled pecans. (F.D.C. No. 46799. S. No. 28-820 T.)

QUANTITY: 173 cases, 12 3-lb. bags each, at Kansas City, Kans.

SHIPPED: 12-5-61, from Little Rock, Ark.

LIBELED: 12-15-61, Dist. Kans.

CHARGE: 402(a)(3)—contained moldy, decomposed, and insect-infested nuts while held for sale.

DISPOSITION: 12-16-61. Consent—claimed by Little Rock Pecan Co., Little Rock, Ark. Segregated; 1,034 lbs. destroyed.

OILS AND FATS

28276. Edible coconut oil. (F.D.C. No. 46289. S. No. 55-616 R.)

QUANTITY: 1 drum, at Seattle, Wash.

SHIPPED: 9-25-59 and 10-28-59, from Lindsay, Calif.

LABEL IN PART: (Drum) "Cobee-Pop Brand Popcorn Oil Made from edible highly refined coconut oil Artificially colored."

RESULTS OF INVESTIGATION: Examination showed that the article contained coal tar color Yellow OB, a color which had been delisted under Section 8.501(a) of the provisional list of color additives, Color Additives Amendments of 1960, and certificate for which had been cancelled.

LIBELED: 8-29-61, W. Dist. Wash.

CHARGE: 402(c)—while held for sale, the article contained a color additive, namely, Yellow OB (formerly FD&C Yellow No. 4) which was unsafe within the meaning of Section 706(a), as amended, since such color additive, pursuant to an order published in the Federal Register on 2-6-59, had been withdrawn from the approved food, drug, and cosmetic color list set forth in the color-certification regulations, the certificates for existing batches and portions of batches of such color additive had ceased to be effective as provided in such regulations and such color additive had not been provisionally listed for use in food pursuant to Section 203 of Color Additive Amendments of 1960.

DISPOSITION: 1-29-62. Default—destruction.

28277. Crude cottonseed oil. (F.D.C. No. 46361. S. Nos. 17-526/9 R.)

INFORMATION FILED: 8-30-61, Dist. N. Mex., against Pecos Valley Cotton Oil, Inc., Loving, N. Mex., and Winston W. Lovelace, manager.

SHIPPED: On 1-5-61 and 1-6-61, from New Mexico to Texas.

CHARGE: 402(a)(4)—prepared under insanitary conditions.

PLEA: Corporation—guilty to all 4 counts of information; Lovelace—nolo contendere to 2 counts.

DISPOSITION: 10-4-61. Corporation—\$300 fine; Lovelace—\$150 fine.

28278. Refined cottonseed oil. (F.D.C. No. 45995. S. No. 65-423 R.)

INFORMATION FILED: 8-9-61, E. Dist. N.C., against Maxton Oil & Fertilizer Co., a corporation, Maxton, N.C.

SHIPPED: 1-25-61, from North Carolina to New Jersey.

CHARGE: 402(a)(4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 9-18-61. \$1,000 fine.

28279. Corn oil. (F.D.C. No. 45803. S. Nos. 61-703/4 R.)

QUANTITY: 83 cases, 12 1-pt. btls. each, at Omaha, Nebr.

SHIPPED: 3-24-61, from Denison, Tex., by Safeway Stores, Inc., Brookside Div.

LABEL IN PART: (Btl.) "Nu Made Pure Corn Oil * * * Safeway Stores Incorporated * * * Oakland, Calif."

RESULTS OF INVESTIGATION: Examination showed the article to be a mixture of corn oil and cottonseed oil.

LIBELED: 5-16-61, Dist. Nebr.

CHARGE: 402(b) (2)—when shipped, cottonseed oil had been substituted in part for corn oil; and 403(a)—the label statement "Pure Corn Oil" was false and misleading.

DISPOSITION: 6-14-62. Consent—destruction.

28280. Crude cottonseed oil. (F.D.C. No. 47849. S. No. 908 T.)

INFORMATION FILED: 9-14-62, M. Dist. Ga., against Central Cotton Oil Co., a corporation, Macon, Ga.

SHIPPED: On 9-15-61, from Macon, Ga., to Boonton, N.J.

CHARGE: 402(a) (4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 10-15-62. \$500 fine.

28281. Imitation olive oil. (F.D.C. No. 47444. S. Nos. 7-470 T, 8-651 T.)

QUANTITY: 27 cases, 6 cans each, at New Britain, Conn.

SHIPPED: 2-5-62, from Boston, Mass., by California Edible Oil Co., Inc.

LABEL IN PART: (Can) "Contents One Gallon * * * National Brand Liquid Gold Imitation Olive Oil * * * Packed by California Edible Oil Co., Boston, Mass."

RESULTS OF INVESTIGATION: Examination showed the article to be short volume.

LIBELED: 4-14-62, Dist. Conn.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 5-10-62. Consent—claimed by California Olive Oil Co., Inc., t/a California Edible Oil Co., of Boston, Mass., and repacked.

SPICES, FLAVORS, AND SEASONING MATERIALS

28282. Salad dressing. (F.D.C. No. 46869. S. No. 46-492 T.)

QUANTITY: 90 cases, 12 jars each, at Benton, Ill.

SHIPPED: 11-22-61, from St. Louis, Mo., by Blanton Co.

LABEL IN PART: (Jar and case) "Bracy Salad Dressing One Quart Net Weight Dist. by Bracy Food Stores Benton, Ill."

RESULTS OF INVESTIGATION: Examination showed the article to be short volume.

LIBELED: 12-29-61, E. Dist. Ill.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 1-29-62. Consent—claimed by Blanton Co., and relabeled.

28283. Chili piquins (spice). (F.D.C. No. 46989. S. No. 20-822 T.)

QUANTITY: 4 45-lb. bags at San Antonio, Tex., in possession of Aviation Coffee Co.

SHIPPED: Prior to 11-6-61, from Mexico.

LIBELED: 1-25-62, W. Dist. Tex.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-7-62. Default—destruction.

28284. Sesame seed. (F.D.C. No. 47061. S. No. 50-161 T.)

QUANTITY: 42 cases, 12 btls. each, at Berkeley, Calif., in possession of Trader Vic's Food Products, Inc.

SHIPPED: 11-25-60, from Granda, Nicaragua.

LABEL IN PART: (Btl.) "Trader Vic's Sesame Seed 3 Oz. * * * Packed by Trader Vic's Products Inc. Berkeley, Calif."

RESULTS OF INVESTIGATION: The article was repacked by the dealer from bulk stock shipped as described above. Examination showed that the article was short weight.

LIBELED: 3-1-62, N. Dist. Calif.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 4-12-62. Default—delivered to a charitable institution.

28285. Sesame seed. (F.D.C. No. 46805. S. No. 39-574 T.)

QUANTITY: 95 110-lb. bags at San Juan, P.R.

SHIPPED: 3-23-61, from New York, N.Y.

LIBELED: 1-25-62, Dist. P.R.

CHARGE: 402(a)(3)—contained insects and rodent excreta pellets while held for sale.

DISPOSITION: 2-13-62. Consent—claimed by Jose Malgor & Co., Inc., San Juan, P.R. Segregated; 8 bags denatured.

28286. Monobasic Calcium Phosphate and salt. (F.D.C. No. 47205. S. Nos. 2-665/7 T.)

QUANTITY: 47 100-lb. bags of Monobasic Calcium Phosphate and 130 100-lb. bags and 64 100-lb. bags of salt, at Laurinburg, N.C., in possession of Laurinburg Milling Co.

SHIPPED: Between 9-11-61 and 12-4-61, from Nashville, Tenn., St. Clair, Mich., and Philadelphia, Pa.

LIBELED: 3-5-62, M. Dist. N.C.

CHARGE: Monobasic Calcium Phosphate and 64-bag lot of salt, 402(a)(3)—contained rodent urine; and (all lots) 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-13-62. Default—destruction.

28287. Mustard. (F.D.C. No. 47462. S. No. 45-690 T.)

QUANTITY: 39 cases, 24 jars each, at Peoria, Ill.

SHIPPED: 3-28-62, from Davenport, Iowa, by Selby Johnson Corp.

LABEL IN PART: (Jar) "German Style Max Moeller Mustard * * * Mfd. by Selby Johnson Corporation * * * Davenport, Iowa 6 Oz."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 4-26-62, S. Dist. Ill.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 7-10-62. Default—delivered to charitable institutions.

28288. Mustard seed and peppercorns. (F.D.C. No. 47433. S. Nos. 20-988/92 T.)

QUANTITY: 180 100-lb. bags containing mustard seed, 60 140-lb. bags containing black pepper, 131 110-lb. bags containing mustard seed, 128 110-lb. bags containing mustard seed, and 372 100-lb. bags containing mustard seed, at Dallas, Tex., in possession of Morton Foods, Inc.

SHIPPED: (Black pepper) 12-8-61, from India; 180-bag lot and 372-bag lot, 1-30-62 and 2-1-62, from Sunburst, Mont.; 131-bag lot, 12-12-61, and 128-bag lot, 10-22-61, both from Denmark.

LIBELED: 4-11-62, N. Dist. Tex.

CHARGE: 402(a)(3)—contained rodent urine and paint; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-18-62. Consent—claimed by Morton Foods, Inc. Segregated; 54,100 lbs. destroyed.

28289. Bicarbonate of soda. (F.D.C. No. 47287. S. No. 1-384 T.)

QUANTITY: 62 100-lb. bags, at Fort Valley, Ga., in possession of Happyvale Flour Mills.

SHIPPED: 11-28-61, from New York, N.Y.

LIBELED: 4-9-62, M. Dist. Ga.

CHARGE: 402(a)(3)—contained rodent excreta and rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 6-28-62. Default—destruction.

28290. Vinegar. (F.D.C. No. 45567. S. Nos. 4-255 R, 4-749 R.)

INDICTMENT RETURNED: 7-25-61, Dist. Md., against Carl H. Woodland, manager of Inter-State Cider & Vinegar Co., Baltimore, Md.

SHIPPED: Between 4-1-60 and 7-12-60, from Maryland to Virginia.

LABEL IN PART: (Jug) "Log Cabin APPLE CIDER VINEGAR Contents 1 Fl. Gallon Inter-State Cider And Vinegar Co. Home Office, Baltimore, Md."

CHARGE: 402(b)(1)—the valuable constituent, apple cider vinegar, had been in part omitted from the article; and 402(b)(2)—a substance other than apple cider vinegar had been substituted in part for the article.

PLEA: Guilty.

DISPOSITION: 10-6-61. \$1,500 fine and probation for 1 year.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE*

28291. Cernelle Pollitabs. (F.D.C. No. 44999. S. No. 45-762 R.)

QUANTITY: 2,000 100-tablet btls. at Maitland, Fla., in possession of Poll-N-Co., Inc.

SHIPPED: 8-9-60, from Vegeholm, Sweden.

LABEL IN PART: (Btl.) "Cernelle Pollitabs A special dietary supplement containing a natural source of vitamin B-12 * * * Each tablet contains: 50 mgm Cernelle-Pollen 20 mgm Cernitin (Extract of pollen), Each tablet supplies 2 micrograms of vitamin B₁₂. * * * Distributed by, Poll-N-Co., Inc., Maitland, Florida Made and packaged in SWEDEN by AB Cernelle, Vegeholm, Sweden."

ACCOMPANYING LABELING: Pamphlets entitled "Pollitabs" and "The Wonders of Pollen."

RESULTS OF INVESTIGATION: The accompanying labeling was prepared on behalf of Poll-N-Co., Inc.

LIBELED: 10-6-60, S. Dist. Fla.

CHARGE: 403(a)—while held for sale, the labeling of the article contained false and misleading representations that the article contained a significant amount of proteins, amino acids, vitamins generally, enzymes, coenzymes, minerals, carbohydrates, lipoids, pigments, flavenoids, carotenoids, flavin, cytochrome, globin, lecithin and trace elements, and other substances, for special dietary use; that the article was more nutritious than raw liver on a weight for weight basis; that pollen was a potent food substance; that pollen was the richest, most potent plant source of vitamin B₁₂, and as a natural source of vitamin B₁₂ it was superior to and more effective than vitamin B₁₂ synthetically produced.

The libel alleged also that the article was misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 6771.

DISPOSITION: On or about 10-25-60, Poll-N-Co., Inc., filed a claim to the article and an answer to the libel. The claimant and the government filed written interrogatories which were answered in part and objected to in part by both parties.

On 11-6-61, a consent decree providing for the condemnation and destruction of the article was filed.

28292. Family Plan Vitafood supplement tablets. (F.D.C. No. 46449. S. No. 2-181 T.)

QUANTITY: 212 boxes, each containing 6 60-tablet btls., at Chamblee, Ga.

SHIPPED: Between 3-8-61 and 3-28-61, from Fort Worth, Tex., by Mace Laboratories, Subsidiary of T. A. Rawson, Inc.

LABEL IN PART: (Btl.) "Family Plan Vitafood Supplement Vitamin Factors * * * Mineral Factors * * * Manufactured for Mace Laboratories * * * Fort Worth, Tex."

LIBELED: 9-12-61, N. Dist. Ga.

*See also No. 28209.

CHARGE: 403(j)—when shipped, the article purported to be and was represented as a food for special dietary uses and its label failed to bear, as required by regulations, a statement of the proportion of the minimum daily requirement for vitamins A, B₁, D, riboflavin, niacinamide, and ascorbic acid, and minerals, calcium, phosphorus, and iron supplied by such food when consumed in a specified quantity during a period of one day, and the statement "The need for calcium pantothenate, zinc, and manganese in human nutrition has not been established."

The libel alleged also that the article was misbranded under the provisions of the law relating to drugs as reported in notices of judgment on drugs and devices, No. 6774.

DISPOSITION: 10-23-61. Default—destruction.

28293. Protein supplement. (F.D.C. No. 45949. S. No. 53-728 R.)

QUANTITY: 82 365-tablet btls., and 2 drums containing a total of 32,500 tablets, at Minneapolis, Minn., in possession of Nu-Age Corp.

SHIPPED: 11-4-60, from St. Louis, Mo.

LABEL IN PART: (Drum) "S. C. Green w/Mint Flavor" and (btl.) "Formula 13 Protein Supplement * * * Nu-Age, Box 5816, Minneapolis 19, Minn. 6287."

ACCOMPANYING LABELING: Additional bottle labels.

RESULTS OF INVESTIGATION: The tablets were shipped in bulk and bottled and labeled by the dealer.

LIBELED: 6-19-61, Dist. Minn.

CHARGE: 403(a)—while held for sale, the label contained false and misleading representations that the article supplied a significant amount of protein for special dietary supplementation.

The libel alleged also that the article was misbranded under the provisions of the Act relating to drugs as reported in notices of judgment on drugs and devices, No. 6770.

DISPOSITION: 7-31-61. Default—destruction.

28294. All-In-One capsules. (F.D.C. No. 44558. S. No. 28-918 R.)

QUANTITY: 5 cases of 72 80-capsule ctns., and 3 cases of 36 160-capsule ctns., at St. Paul, Minn.

SHIPPED: 2-2-60, from West Hempstead, N.Y., by John H. Mathis, Inc.

LABEL IN PART: (Ctn.) "All-In-One Capsules A Dietary Supplement * * * Each capsule contains * * * Packed for and Distributed by State Pharmacal Co., Chicago 1, Ill."

ACCOMPANYING LABELING: Leaflet entitled "The Story of All-In-One Capsules."

LIBELED: 5-2-60, Dist. Minn.

CHARGE: 403(a)—when shipped, the name of the article "All-In-One Capsules" and the accompanying labeling were false and misleading in representing that the article contained all nutrients required in human nutrition and in significant amounts; and (labeling only) that the article would supply significant amounts of protein material to its consumer; and that it was a blend of dietary supplements which were essential in good health; 403(a)—the label statement "The need for * * * niacinamide and pyridoxine in human nutrition has not yet been established" was false and misleading since the need for such substances in human nutrition had been established; 403(a)—the label

statements "Malt diastase 25.00 mg." and "with * * * Digestive Ferments," represented that the article, as a special dietary food, would supply significant amounts of malt diastase and digestive ferments to promote digestion, which statements were false and misleading since the addition of enzymes to the diet was of no value for special dietary food purposes; and 403(j)—the article purported to be and was represented as a food for special dietary uses by reason of its vitamin content and its label failed to bear, as required by regulations, a statement of the proportion of the minimum daily requirement for niacinamide supplied by such food when consumed during a period of one day.

The libel alleged also that the article was misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 6764.

DISPOSITION: On 6-3-60, John H. Mathis, Inc., filed a claim and answer. On 5-23-61, the action came on for hearing before the court, and there was no appearance on behalf of any claimant. On 1-15-62, the article was ordered condemned and destroyed.

28295. Lecitabs (lecithin tablets). (F.D.C. No. 46437. S. No. 70-975 R.)

QUANTITY: 8 cases, each containing 12 90-tablet btls., 1 case, containing 10 90-tablet btls., 8 cases, each containing 12 180-tablet btls., and 3 cases, each containing 12 540-tablet btls., at Minneapolis, Minn.

SHIPPED: Between 8-27-58 and 7-21-60, from Chicago, Ill., by National Lecithin, Inc.

LABEL IN PART: (Btl.) "National Lecitabs Lecithin Tablets A Natural Food Product Highly concentrated extra rich, Soya Lecithin formula of 95% oil-free Phosphatides. Ingredients: Soya Lecithin, in a base of non-fat, dry milk solids and soy protein. Natural flavoring added. Sole Distributors: National Lecithin, Inc. Chicago 26, Ill."

LIBELED: 9-11-61, Dist. Minn.; amended libel 9-15-61.

CHARGE: 403(a)—when shipped, the label of the article bore false and misleading representations that the article was of significant value for special dietary supplementation by reason of the presence therein of lipotropic factors, cephalin, and linoleic and linolenic acids: and 403(j)—the article purported to be and was represented as a food for special dietary uses by reason of the presence of choline and inositol and its label failed to bear, as required by regulations, a statement as to the quantity of choline and inositol in a specified quantity of the food.

The libel alleged also that the article was misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 6763.

DISPOSITION: 10-31-61. Default—destruction.

28296. Coldene vitamin tonic with iron. (F.D.C. No. 45764. S. No. 82-805 R.)

QUANTITY: 400 cases, each containing 2 display ctns., each of which contained 6 individually ctnd. btls., at New York, N.Y.

SHIPPED: Prior to September 1960, from Cranbury, N.J., by Pharma-Craft Corp.

LABEL IN PART: (Btl. & btl. ctn.) "Coldene Vitamin Tonic with Iron * * * giving therapeutic amounts of vitamins important to supplement the diet of those in run-down conditions. Especially indicated for use in convalescence

from colds, flu and similar illness. Each fluid oz. (2 Tablespoonfuls) contains: * * * Riboflavin (B₂) 4 mg. * * * Pharma-Craft Corporation, Distrs. Cranbury, N.J.”

ACCOMPANYING LABELING: Leaflet entitled “Coldene Liquid Cold Medicine.”

RESULTS OF INVESTIGATION: Analysis showed that the article contained approximately 68 percent of the declared amount of riboflavin.

LIBELED: 5-8-61, S. Dist. N.Y.

CHARGE: 402(b) (1)—when shipped and while held for sale, the valuable constituent, riboflavin, had been in part omitted or abstracted from the article; 403(a)—the label statement “Each fluid oz. contains: * * * Riboflavin (B₂) 4 mg.” was false and misleading as applied to an article which contained less than the declared amount of riboflavin; the statements “M.D.R. for Niacinamide * * * not established,” and “Need in human nutrition for * * * Methionine is not established,” were false and misleading since they were contrary to fact; and 403(j)—the article purported to be and was represented as a food for special dietary use by reason of its vitamin and mineral content and its label failed to bear, as required by regulations, a statement of the proportion of the minimum daily requirement for vitamins B₁ and B₂, and niacinamide and for iron supplied by such food when consumed in a specified quantity during the period of one day.

The libel alleged also that the article was misbranded under the provisions of the Act relating to drugs as reported in notices of judgment on drugs and devices, No. 6806.

DISPOSITION: 7-6-61. Default—destruction.

28297. Y-Min tablets, Granular Y-Min, and vitamin C tablets. (F.D.C. No. 45541. S. Nos. 55-805/7 R.)

QUANTITY: 16 340-tablet btls. of Y-Min; 6 36-oz. btls. and 7 12-oz. btls. of Granular Y-Min; and 13 80-tablet btls. of vitamin C, at Parma, Idaho, in possession of Yensen Mineral Co.

SHIPPED: 12-28-60 and 1-25-61, from Los Angeles, Calif., and St. Louis, Mo.

LABEL IN PART: “340 Y-Min Tablets An Organic Mineral Vitamin Food Supplement (Complete except for Vitamin C which is in an accompanying container) * * * Distributed by The Yensen Mineral Co., Parma, Idaho. Prepared from concentrates of sea plants and green leafy vegetables; bone flour, and iron phosphate. Vitamin A made from lemon grass, Vitamin D from irradiated plant sterols. B Complex factors are as present in yeast, with Thiamine and Riboflavin added. * * * This is a concentrated Food Supplement”; Granular Y-Min An organic Mineral Vitamin Food Supplement (Complete except for Vitamin C which is in an accompanying container). Recommended in those conditions where an additional mineral and vitamin intake is indicated. * * * Distributed by The Yensen Mineral Co., Parma, Idaho, Contains concentrates of the sea algae *Macrocystis Pyrifera*, *Laminaria longifolia*, with specially processed wheat germ, bone meal, milk minerals, iron phosphate, and brewer's yeast. Also concentrates of the fresh fruits—apple, apricot, orange, lemon, banana, tomato, with escarole, and parsley concentrates. Vitamin A from lemon grass; Vitamin D from irradiated plant sterols; Vitamins B complex from yeast. Thiamin and riboflavin added. * * * Y-Min is a concentrated food supplement”; and “Vitamin C 80 Tablets Each tablet contains 100 milligrams (2,000 units) of Vitamin C (Ascorbic Acid) Yensen Mineral Company, Parma, Idaho * * * Dose: one to two tablets daily.”

ACCOMPANYING LABELING: Leaflets entitled "Information for Y-Min users" and "About Food Supplements."

RESULTS OF INVESTIGATION: The articles were shipped in bulk and repacked by the dealer. The leaflets were prepared on order of the dealer.

LIBELED: 4-10-61, Dist. Idaho.

CHARGE: Y-Min tablets with vitamin C tablets, 403(a)—while held for sale, the accompanying labeling contained false and misleading representations that the articles would maintain a milk supply for mothers; that the ordinary foods of the diet were "Foodless Food," "Saw Dust," and due to growing, harvesting, processing, storing, discarding, selecting, and cooking conditions, did not provide adequate nutrition; that the American diet supplied one-fourth of the requirements for minerals and vitamins; that the articles were a complete, balanced nutritional and organic food supplement which was safe for use according to their label directions by anyone except those who were allergic to their ingredients; that the articles were rich in those things which are most often lacking in the American diet; and that the articles contained all the unknown food factors in significant amounts for special dietary use: the label statements "An Organic Mineral Vitamin Food Supplement," "Complete except for Vitamin C," and "This is a concentrated food supplement," were false and misleading since they were contrary to fact; the statements which represented and suggested that the article contained significant amounts of green, leafy vegetables for special dietary use were false and misleading since they were contrary to fact; 403(i) (2)—the article was fabricated from 2 or more ingredients and the label failed to bear the common or usual name of each such ingredient, since "sea plants" and "Green leafy vegetables" are not the common names of those ingredients; 403(j)—the article purported to be and was represented as a food for special dietary use by reason of its vitamin content and its label failed to bear, as required by regulations, a statement of the proportion of the minimum daily requirement for vitamin C supplied by such food when consumed in a specified quantity during a period of one day.

Granular Y-Min with vitamin C tablets, 403(a)—while held for sale, the accompanying labeling contained false and misleading representations that the articles would maintain a milk supply for mothers; that the ordinary foods of the diet were "Foodless Food," "Saw Dust," and due to growing, harvesting, processing, storing, discarding, selecting, and cooking conditions, did not provide adequate nutrition; that the American diet supplied one-fourth of the requirements for minerals and vitamins; that the articles were a complete, balanced nutritional and organic food supplement which was safe for use according to their label directions by anyone except those who were allergic to their ingredients; that the articles were rich in those things which are most often lacking in the American diet; and that the articles contained all the unknown food factors in significant amounts for special dietary use; 403(a)—the label contained false and misleading representations that the article contained significant amounts of wheat germ and the concentrates of fresh fruits of apple, apricot, orange, lemon, banana, tomato, and escarole and parsley, for special dietary use; 403(i) (2)—the article was fabricated from 2 or more ingredients and its label failed to bear the common or usual name of each such ingredient since "sea algae," "Macrocystic Pyrifera," and "Laminaria longifolia," and "milk minerals," are not the common or usual names of those ingredients; and 403(j)—the article purported to be and was represented as a food for special dietary use by reason of its vitamin

content and its label failed to bear, as required by regulations, a statement of the proportion of the minimum daily requirement for vitamin C supplied by such food when consumed in a specified quantity during a period of one day.

The libel alleged also that the articles were misbranded under the provisions of the Act relating to drugs as reported in notices of judgment on drugs and devices, No. 6805.

DISPOSITION: 7-12-61. Default—destruction.

28298 Becoron tablets. (F.D.C. No. 47534. S. No. 71-806 T.)

QUANTITY: 535 bottles, at Evansville, Ind.

SHIPPED: 8-19-60, from Long Island City, N.Y.

LABEL IN PART: (Btl.) "Becoron 100 Tablets No. 10 Brand of B-Complex with Folic Acid and Iron each tablet contains: Vitamin Source Mg. * * * Folic Acid 0.5 * * * Two Tablets after each meal."

LIBELED: 6-13-62, S. Dist. Ind.

CHARGE: 402(a)(2)(C)—while held for sale, the article contained a food additive, namely, folic acid, which is unsafe within the meaning of 409 since it and its use or intended use were not in conformity with a regulation or exemption in effect pursuant to 409.

DISPOSITION: 7-27-62. Default—destruction.

MISCELLANEOUS FOODS

28299. Dried corn husks. (F.D.C. No. 47292. S. Nos. 31-035/6 T.)

QUANTITY: 35 60-lb. boxes and 91 55-lb. boxes, at Los Angeles, Calif.

SHIPPED: 12-29-61 and 3-2-62, from San Diego, Calif., after having been imported from Mexico.

LIBELED: 4-11-62, S. Dist. Calif.

CHARGE: 402(a)(3)—contained insects, insect excreta, insect larvae, and insect-chewed corn husks, while held for sale.

DISPOSITION: 6-29-62. Consent—claimed by Ysaías Torres of Ensenada, Baja California, Mexico and exported to original foreign supplier.

28300. Whitex Special Antioxidant. (F.D.C. No. 46874. S. Nos. 35-832/3 T.)

QUANTITY: 93 1-lb. jars and 12 5-lb. jars at Williston, N. Dak.

SHIPPED: 10-9-61, from Kingsport, Tenn., by Bond Co.

LABEL IN PART: "Whitex, Special Antioxidant, Ingredients: Sodium Bisulfite, Sodium Bicarbonate, Sugar, Citric Acid, Ascorbic Acid; * * * The Bond Company, P.O. Box 991, 215 Commerce Street, Kingsport, Tennessee" or "For Potatoes only Tower Supply Co., Inc. 1815-19 West St. Joe Street, Rapid City, South Dakota."

RESULTS OF INVESTIGATION: Analysis showed that the article contained a fluoride compound.

LIBELED: 12-29-61, Dist. N. Dak.; amended libel 2-12-62.

CHARGE: 402(a)(2)(C)—when shipped, the article contained a food additive, namely, a fluoride compound, which is unsafe within the meaning of 409, since it and its use or intended use were not in conformity with a regulation or exemption in effect pursuant to 409.

DISPOSITION: 3-15-62. Default—destruction.

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¹ (28229) Seizure contested. Contains opinion of the court.

² (28264) Seizure contested. Contains opinion and order of the court.

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² (28264) Seizure contested. Contains opinion and order of the court.³ (28255, 28256) Seizure contested.

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canned mushrooms -----	28260	Grocery:	
McAleer, R. C., Co., Inc.:		flour and cornmeal -----	28214
maraschino cherries -----	28253	Passini Cheese Co.:	
Mace Laboratories:		provolone cheese -----	28243
Family Plan Vitafood Supple-		Paul's, Mrs., Kitchens:	
ment tablets -----	28292	crabmeat -----	28250, 28251
Major Italian Foods:		Pecos Valley Cotton Oil, Inc.:	
noodles -----	28218	crude cottonseed oil -----	28277

¹ (28229) Seizure contested. Contains opinion of the court.

	N.J. No.		N.J. No.
Pharma-Craft Corp.:		Snow Crest Beverages, Inc.:	
Coldene vitamin tonic, with		ice cream topping-----	28240
iron -----	28296	State Pharmacal Co.:	
Pierce, S. S., Co.:		All-In-One capsules-----	28294
shelled pecans-----	28268	Storey Food Products Co.:	
Planters Nut & Chocolate Co.:		canned sauerkraut-----	28261
shelled pecans-----	28270	Swadley, Guy, Jr.:	
Planters Peanuts:		flour and cornmeal-----	28214
shelled pecans-----	28270	Sweets Company of America,	
Poll-N-Co., Inc.:		Inc.:	
Cernelle Pollitabs-----	28291	Tootsie Rolls (candy)-----	28231
Potato Products Corp.:		Switzer's Licorice Co.:	
potato flour-----	28215	licorice candy-----	28232
Price's Creameries, Inc.:		Terry Candy Co.:	
cottage cheese-----	28242	candy corn-----	28233
Public Warehouse Co., Inc.:		Cowboy candy bar-----	28230
rice and popcorn-----	28221	Thompson Co., Inc.:	
Quaker Oats Co.:		shelled pecans-----	28269
puffed wheat and puffed rice--	28219	Tower Supply Co., Inc.:	
Rawson, T. A., Inc. <i>See</i> Mace		Whitex Special Antioxidant---	28300
Laboratories.		Trader Vic's Food Products, Inc.:	
Reid Grain Co.:		sesame seed-----	28284
unpopped popcorn-----	28223	Utah Wholesale Grocery Co.:	
Rich Plan Corp.:		unshelled peanuts and mixed	
frozen haddock fillets-----	28247	nuts -----	28267
Ritter, P. J., Co.:		Vaughn, W. K.:	
tomato catsup----- ²	28664	flour -----	28211
Robb-Ross Co., Inc.:		Welch, James O., Co. <i>See</i> Mans-	
honey -----	28238	field Chocolate Co.	
Safeway Stores, Inc.:		Williams Pecan Products Co.:	
corn oil-----	28279	shelled pecans-----	28273
Selby Johnson Corp.:		Woldert Co.:	
mustard -----	28287	shelled pecans-----	28271, 28272
Shaghalian, Miran:		Woodland, C. H.:	
candy -----	28227	vinegar -----	28290
Shaghalian, M. G., & Co., Inc.:		Wright, J. N., Jr.:	
candy -----	28227	canned tomatoes-----	28262
Shiel, H. E.:		Yensen Mineral Co.:	
rice -----	28220	Y-Min tablets, Granular Y-Min,	
Simpson Andrews Co.:		and vitamin C tablets-----	28297
flour -----	28213	Zentner, G. H.:	
Sisk, Albert W., & Sons:		butter -----	28241
canned tomatoes-----	28262		

² (28264) Seizure contested. Contains opinion and order of the court.

U.S. Department of Health, Education, and Welfare
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

U.S. DEPT. OF AGRICULTURE

LIBRARY

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

28301-28400

MAY 22 1963

FOODS

CURRENT SERIAL RECORDS

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce, when shipped to a holder of a guaranty, or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered after default or consent; (2) criminal proceedings which were terminated upon pleas of guilty and nolo contendere, and, in one case each, upon a judgment of not guilty after trial by the court, and upon a verdict of guilty after trial by jury; and (3) an injunction proceeding terminated upon the entry of a permanent injunction and its subsequent dismissal upon the defendant's compliance with all the orders of the court. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal and the injunction proceedings were against the *firms* and *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D.C., April 15, 1963.

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SECTIONS OF FEDERAL FOOD, DRUG AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F.N.J. NOS. 28301-28400

Adulteration, Section 402(a)(2)(B), the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of section 408(a); Section 402(a)(2)(C), the article contained a food additive which was unsafe within the meaning of Section 409; Section 402(a)(3), the article consisted in whole or in part of a filthy, putrid, or decomposed substance, or it was otherwise unfit for food; Section 402(a)(4), the article had been prepared, packed, or held under insanitary conditions whereby it might have become contaminated with filth or might have been rendered injurious to health; Section 402(b)(1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b)(2), a substance had been substituted in whole or in part for the article; Section 402(b)(4), a substance had been added to the article or mixed or packed therewith so as to increase its bulk or weight, or make it appear of greater value than it was; Section 402(c), the article contained a color additive which was unsafe within the meaning of Section 706(a); Section 408(a), a poisonous or deleterious pesticide chemical, or a pesticide chemical not generally recognized, among qualified experts, as safe for use, added to a raw agricultural commodity, was deemed to be unsafe because no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare, or because the quantity of the pesticide chemical in or on the raw agricultural commodity was not within the limits of a tolerance prescribed by the Secretary of Health, Education, and Welfare; Section 409, a food additive was deemed to be unsafe because the food additive and its use or intended use failed to conform to the terms of an effective exemption or because there was not in effect, or the food additive and its use or intended use failed to be in conformity with, a regulation prescribing conditions for safe use; and Section 706(a), a color additive was deemed to be unsafe because there was not in effect, or such additive and its use were not in conformity with, a regulation listing such additive for a particular use, and such additive was neither from a batch certified for such use, nor had with respect to such use, been exempted from certification, or such additive and its use failed to conform to the terms of an exemption.

Misbranding, Section 403(a), the labeling of the article was false and misleading; Section 403(e), the article was in package form, and it failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; Section 403(f), a word, statement, or other information required by or under authority of the Act to appear on the label or labeling was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; Section 403(g), the article purported to be or was represented as a food for which a definition and standard of identity had been prescribed by regulations and (1) it failed to conform to such definition and standard and (2) its label failed to bear, as required by regulations, the common names of certain optional ingredients present in such food; Section 403(h), the article purported to be or was represented as (1) a food for which a standard of quality had been prescribed by regulations, and its quality fell below such standard, or (2) a food for which a standard of fill of container had been prescribed by regula-

tions and it fell below the applicable standard of fill of container; Section 403(i), the article was not subject to the provisions of Section 403(g), and (1) its label failed to bear the common or usual name of the article, and (2) the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient; Section 403(j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information concerning its vitamin, mineral, and other dietary properties as the Secretary had determined to be, and by regulation prescribed as, necessary in order fully to inform purchasers as to its value for such uses; and Section 403(k), the article contained artificial coloring, or a chemical preservative, and it failed to bear labeling stating that fact.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

28301. White bread. (F.D.C. No. 46724. S. Nos. 17-691 R, 49-697 R.)

INFORMATION FILED: 4-19-62, Dist. Colo., against Joe's Bakery, a partnership, and Allen W. Brown and Woodrow W. Ward, partners, Trinidad, Colo.

SHIPPED: 10-7-60 and 5-17-61, from Colorado to New Mexico.

LABEL IN PART: (Loaf label) "Joe's [or "Joe's Sliced"] Net Weight 18 oz. [or "16 Oz."] Joe's Bakery, Trinidad, Colorado."

CHARGE: 402(a)(3) contained insect fragments, mites, and hair; and 402(a)(4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 6-1-62. Partnership—\$100 fine; each individual—probation for 2 years.

28302. Fruit bars. (F.D.C. No. 45358. S. Nos. 19-636/7 R.)

QUANTITY: 101 ctns., each containing 12 1-lb. pkgs. of Venus Apricot Bars and 70 ctns., each containing 12 1-lb. pkgs. of Venus Strawberry Bars, at Dearborn, Mich.

SHIPPED: 9-30-60 and 11-21-60, from Los Angeles, Calif., by Venus Foods.

LABEL IN PART: (Pkg.) "Venus Apricot Bars * * * Ingredients: Fruit Solids * * * Apricots * * * Vitamin C Added. * * * Venus Foods—Los Angeles 58, Calif. * * *" and "Venus Strawberry Bars * * * Ingredients: Fruit Solids * * * Strawberries * * * Vitamin C Added. * * * Venus Foods—Los Angeles 58, Calif."

LIBELED: 1-23-61, E. Dist. Mich.

CHARGE: 402(b)(1)—when shipped, the valuable constituents (Apricot Bars) apricots and (Strawberry Bars) strawberries, had been in whole or in part omitted or abstracted therefrom; 402(b)(4)—figs and dates had been mixed or packed with the articles so as to increase their bulk or weight and make them appear of greater value than they were; and 403(a)—the label statements "Apricot Bars" and "Strawberry Bars" and the label vignettes depicting whole fresh fruit, apricots and strawberries, were false and misleading as applied to an article (Apricot Bars) containing no apricots, and an article (Strawberry Bars) containing a mixture of figs and dates and some strawberries; and 403(j)—the articles were represented for special dietary use by reason of their vitamin C content, and their labels failed to

bear, as required by regulations, a statement of the proportion of the minimum daily requirement for vitamin C supplied by the articles when consumed in a specified quantity during a period of 1 day.

DISPOSITION: 7-11-61. Default—destruction.

28303. Frozen buns and rolls. (F.D.C. No. 46723. S. Nos. 5-537 R, 5-549 R, 75-040 R, 76-196 R.)

INFORMATION FILED: 5-31-62, N. Dist. Ga., against Peter Pan Baking Co., Inc., Atlanta, Ga., and Ernest Earl McClure (plant superintendent).

SHIPPED: Between 7-11-61 and 7-29-61, from Atlanta, Ga., to Crozet, Va., and Charlotte, N.C.

LABEL IN PART: (Pkg.) "4 Buns, Morton Frozen Honey Buns, Net. Wt. 11 oz. Morton Frozen Foods Division Continental Baking Company General Offices: Rye, N.Y. U.S.A. Distributor"; Brown'N Serve Enriched Rolls, Net Weight 10½ Ounces Colonial Stores Incorporated General Office, Atlanta, Georgia."

CHARGE: 402(a)(3)—contained insect parts and rodent hairs; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 7-25-62. Corporation—\$200 fine; McClure—\$20 fine.

28304. Rolls and cinnamon rolls. (F.D.C. No. 46709. S. Nos. 72-203 R, 72-205/6 R.)

INFORMATION FILED: 3-29-62, W. Dist. Ark., against Meyer's Bakery of Hope, Inc., Hope, Ark.

SHIPPED: 8-2-61, from Arkansas to Mississippi and Oklahoma.

LABEL IN PART: (Pkg.) "Peter Pan Brown'N Serve Enriched Rolls," "Patty Baker Cinnamon Rolls," "Golden Krust Enriched Brown-N Serve Rolls."

CHARGE: 402(a)(3)—the Peter Pan rolls contained larvae and insect fragments, the cinnamon rolls contained insect fragments and rodent hairs, the Golden Krust rolls contained insect fragments; and 402(a)(4)—the articles were prepared and packed under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 8-15-62. \$300 fine.

FLOUR

28305. Flour. (F.D.C. No. 46380. S. No. 68-111 R.)

INFORMATION FILED: 11-17-61, N. Dist. Okla., against Warehouse Market, Inc., Tulsa, Okla.

ALLEGED VIOLATION: Between 3-10-61 and 4-10-61, while a number of bags of flour were being held for sale after shipment in interstate commerce, the defendant caused the flour to be held in a building accessible to rodents and to be exposed to contamination by rodents, which acts resulted in the flour being adulterated.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 6-25-62. \$1,000 fine.

28306. Flour and cornmeal. (F.D.C. No. 47766. S. Nos. 80-681/4 T.)

QUANTITY: 56 25-lb. bags of flour, 35 25-lb. bags of self-rising flour, and 83 25-lb. bags of cornmeal, at Durant, Okla., in possession of Durant Milling Co.

SHIPPED: Between 11-13-61 and 3-19-62, from Denton, Tex.

LIBELED: 6-25-62, E. Dist. Okla.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 7-30-62. Default—destruction.

28307. Flour. (F.D.C. No. 46621. S. No. 39-568 T.)

QUANTITY: 357 100-lb. bags at Santurce, P.R.

SHIPPED: 9-18-61, from Fostoria, Ohio.

LIBELED: 11-7-61, Dist. P.R.

CHARGE: 402(a)(3)—contained insects and insect larvae while held for sale.

DISPOSITION: 10-11-62. Consent—claimed by Turnbull Cones of Puerto Rico, Inc., Santurce, P.R., and destroyed.

28308. Flour. (F.D.C. No. 46651. S. No. 70-489 R.)

INFORMATION FILED: 5-17-62, Dist. R.I., against Amore-Aurora Bakery, Inc., Providence, R.I.

ALLEGED VIOLATION: Between 3-1-61 and 4-21-61, while quantities of flour were being held for sale after shipment in interstate commerce, the defendant caused the flour to be held in a building that was accessible to insects and to be placed in insect-contaminated flour conveying equipment in the building, which act resulted in the flour being adulterated.

CHARGE: 402(a)(3)—contained insects and insect parts; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 10-5-62. \$100 fine.

28309. Flour. (F.D.C. No. 46714. S. No. 6-370 T.)

INFORMATION FILED: 4-2-62, Dist. Mass., against Idilio Nunes, t/a Broadway Bakery, Taunton, Mass.

ALLEGED VIOLATIONS: Between 8-16-61 and 8-31-61, while quantities of flour were being held for sale after shipment in interstate commerce, the defendant caused the articles to be held in a building accessible to insects and to be exposed to contamination by insects, by placing the flour in an insect-contaminated flour conveying system, which acts resulted in the flour being adulterated.

CHARGE: 402(a)(3)—contained insects and insect parts; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 8-3-62. \$300 fine.

MACARONI AND NOODLE PRODUCTS

28310. Macaroni products. (F.D.C. No. 44949. S. Nos. 80-008/11 P, 80-201/2 P.)

INFORMATION FILED: 6-14-61, E. Dist. Mich., against Prince-Michigan Macaroni Manufacturing Co., a corporation, Detroit, Mich.

SHIPPED: 7-23-59, from Detroit, Mich., to Toledo, Ohio.

LABEL IN PART: (Pkg.) "Prince Vitamin Enriched Thin Spaghetti 1 lb. Net, Prince Macaroni Co., Gen'l Offices, Lowell, Mass.,"; "Prince Enriched Macaroni Elbows NET WEIGHT ONE POUND Prince Macaroni Mfg. Co. General Offices, Lowell, Mass.,"; "Prince Enriched Pure Egg Noodles Net Wt. 16 oz. Prince Macaroni Co. Lowell, New York, Rochester, Detroit, Chicago, Miami."

RESULTS OF INVESTIGATION: Analysis indicated that the enriched egg noodles contained only 3.66 percent solids of egg or egg yolk.

CHARGE: 402(a)(3)—when shipped, the spaghetti, macaroni, and egg noodles contained insect fragments; and 402(a)(4)—prepared and packed under insanitary conditions; and 403(g)(1)—when shipped, the egg noodles failed to conform to the definition and standard of identity for enriched egg noodles since the total solids of the article contained less than 5.5 percent by weight of the solids of egg or egg yolk.

PLEA: Guilty.

DISPOSITION: 9-27-62. \$2,000 fine.

28311. Egg noodles. (F.D.C. No. 46954. S. Nos. 17-402/7 T, 17-409 T.)

QUANTITY: 9,268 cases, each containing 4 5-lb. boxes, at Columbus, Ohio.

SHIPPED: Between 2-2-61 and 6-13-61, from Brooklyn, N.Y., by Paramount Macaroni Manufacturing Co., Inc.

LABEL IN PART: (Box) "Noodles, Egg 5 lbs. Net * * * Paramount Macaroni Mfg. Co., Inc., Brooklyn, N. Y."

LIBELED: 2-1-62, S. Dist. Ohio.

CHARGE: 402(b)(1)—when shipped, the valuable constituent, egg or egg yolk solids, had been in whole or in part omitted from the article; and 403(g)(1)—the article failed to conform to the definition and standard of identity for egg noodles since the total solids of the article contained less than 5.5 percent by weight of the solids of egg or egg yolk.

DISPOSITION: 5-16-62. Consent—delivered to a public agency for use as macaroni.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

28312. Wheat. (Inj. No. 337.)

COMPLAINT FOR INJUNCTION FILED: 7-8-58, E. Dist. Wash., against Rosalia Producers, Inc., Rosalia, Wash.

CHARGE: The complaint alleged that the defendant was engaged in operating at Balder, Wash., a grain elevator facility consisting of a central building housing certain elevator equipment and a number of wheat storage bins, a flat house located south of the central building and a flat house located north of the central building for the storage and distribution of wheat for human consumption, and that the defendant was causing to be introduced into interstate commerce, wheat which was adulterated within the meaning of 402(a)(4), by reason of being held at defendant's elevator facility under insanitary conditions.

It was alleged further that the insanitary conditions resulted from and consisted of the presence of bird excreta in the head house and on the braces of the central building, rat and mouse tracks on the cross members of the boot

pit in the central building, bird excreta on the edges of the wheat bins in the north flat house, dead rodents in the tunnel containing a screw conveyer between the storage bins in the north flat house, and rodent excreta pellets near the end of the tunnel and on the ledges of the doors opening into two of the storage bins in the north flat house, dead mice on the floor of the south flat house, hundreds of rodent excreta pellets in the corners of the south flat house, piles of bird excreta along the south wall above the wheat in storage in the south flat house, and a dead mouse, a large clump of bird excreta, and many rodent excreta pellets on the surface of the wheat stored in the south flat house.

DISPOSITION: On 7-8-58, the court entered a temporary restraining order enjoining the defendant against introducing into interstate commerce and delivering to persons in the State of Washington who were known to be engaged in the distribution of wheat in interstate commerce, wheat for human consumption which was adulterated as alleged in the complaint. The defendant was further enjoined against causing such acts of introduction and delivery unless and until

(a) the elevator buildings consisting of a central building, a flat house south of the central building and a flat house north of the central building are thoroughly cleaned, renovated, and rendered suitable for the storage of wheat for human consumption, to wit, unless and until all rodent and bird filth is removed from said buildings and the equipment used in storing such wheat is cleaned, all rodent and bird infestation in said buildings is eliminated, the means of ingress and egress of the buildings by rodents and birds are closed; and any similar insanitary conditions which may result in the contamination of wheat for human consumption while held in said buildings are eliminated;

(b) all of the wheat which is on hand in said elevator buildings at the time said buildings are cleaned, renovated, and rendered suitable for the storage of food for human consumption is destroyed, denatured for use as animal feed, or cleaned and otherwise reconditioned under the supervision of a duly authorized representative of the Food and Drug Administration, Department of Health, Education, and Welfare, and thus brought into compliance with the provisions of the Act, all costs of said supervision to be borne by the defendant; and

(c) an inspection is made of said elevator buildings by a duly authorized representative of the Food and Drug Administration, Department of Health, Education, and Welfare, and a report made to the court which shows that the above described or any similar insanitary conditions no longer exist and that the wheat described in subparagraph (b) above has been destroyed, denatured, or brought into compliance with the law as provided in said subparagraph (b).

On 7-16-58, an order was entered permitting the removal from the defendant's grain elevator facility at Balder, Wash., for delivery to a firm at Spokane, Wash., of 30,000 bushels of wheat for cleaning and renovation.

On 7-30-58, the court, having found that the north and central buildings of the defendant's grain elevator facility were clean and sanitary, a permanent injunction was entered with respect to the use of the south flat house building, which enjoined the defendant against the storage in such building of wheat for human consumption unless and until the construction of the building was altered so that the insanitary conditions of such building were eliminated.

On 11-7-58, it appearing that the defendant had complied with all of the orders of the court, an order was entered for dismissal of the action.

28313. Wheat. (F.D.C. No. 45814. S. No. 27-476 R.)

QUANTITY: 90,000 lbs. at Minneapolis, Minn.

SHIPPED: 5-8-61, from Mansfield, S. Dak., by Farmers Union Grain Terminal Association.

LIBELED: 5-29-61, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 6-7-61. Consent—claimed by Farmers Union Grain Terminal Association. Segregated; 4,430 lbs. denatured for use as animal feed.

28314. Wheat. (F.D.C. No. 45834. S. No. 54-161 R.)

QUANTITY: 88,000 lbs. at Duluth, Minn.

SHIPPED: 5-17-61, from Wishek, N. Dak., by Union Elevator Co.

LIBELED: 6-14-61, Dist. Minn.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408(a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat has been prescribed by regulations.

DISPOSITION: 6-26-61. Consent—claimed by Union Elevator Co. Segregated; 12,410 lbs. destroyed.

28315. Wheat. (F.D.C. No. 46997. S. No. 35-074 T.)

QUANTITY: 125,000 lbs. at Minneapolis, Minn.

SHIPPED: 1-11-62, from Pollock, S. Dak., by Pollock Farmers Elevator Co.

LIBELED: 1-26-62, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 2-2-62. Consent—claimed by Pollock Farmers Elevator Co., and denatured.

28316. Wheat. (F.D.C. No. 47034. S. No. 34-163 T.)

QUANTITY: 93,000 lbs. at Minneapolis, Minn.

SHIPPED: 1-23-62, from Pollock, S. Dak., by Pollock Farmers Elevator Co.

LIBELED: 2-13-62, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 2-20-62. Consent—claimed by Pollock Farmers Elevator Co., and denatured.

28317. Wheat. (F.D.C. No. 47050. S. No. 27-534 T.)

QUANTITY: 108,000 lbs. at Kansas City, Mo.

SHIPPED: 2-5-62, from Phillipsburg, Kans., by Dean Grain Co.

LIBELED: 3-7-62, W. Dist. Mo.

CHARGE: 402(a)(3)—when shipped, contained rodent excreta pellets.

DISPOSITION: 3-9-62. Consent—claimed by Mid-Continent Grain Co., Kansas City, Mo. Segregated; 7,260 lbs. destroyed.

28318. Wheat. (F.D.C. No. 47228. S. Nos. 34-385/6 T.)

QUANTITY: 103,200 lbs. at Minneapolis, Minn.

SHIPPED: 2-7-62, from Aberdeen, S. Dak., by South Dakota Wheat Growers Farmers Elevator.

LIBELED: 3-7-62, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 3-14-62. Consent—claimed by South Dakota Wheat Growers Farmers Elevator, and denatured.

28319. Wheat. (F.D.C. No. 47043. S. No. 27-484 T.)

QUANTITY: 90,000 lbs. at Kansas City, Kans.

SHIPPED: 2-8-62, from Voda, Kans., by Standard Milling Co.

RESULTS OF INVESTIGATION: The wheat was consigned for delivery in Kansas City, Mo.

LIBELED: 2-21-62, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 3-16-62. Consent—claimed by Standard Milling Co., Kansas City, Mo., and reconditioned; 71,200 lbs. of wheat salvaged.

28320. Wheat. (F.D.C. No. 47041. S. Nos. 28-934/6 T.)

QUANTITY: 330,600 lbs. at Kansas City, Mo.

SHIPPED: 1-26-62 and 1-30-62, from Chugwater, Wyo., by Colorado Milling & Elevator Co.

LIBELED: 2-16-62, W. Dist. Mo.

CHARGE: 402(a)(3)—contained insect-damaged wheat kernels when shipped.

DISPOSITION: 4-4-62. Consent—claimed by Mid-Continent Grain Co. and reconditioned; 31,850 lbs. converted for use as animal feed.

28321. Wheat. (F.D.C. No. 47275. S. No. 34-699 T.)

QUANTITY: 90,000 lbs. at Minneapolis, Minn.

SHIPPED: 3-16-62, from Kintyre, N. Dak., by Farmers Co.

LIBELED: 4-3-62, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 5-15-62. Consent—claimed by Farmers Union Grain Terminal Association, St. Paul, Minn., and denatured.

28322. Wheat. (F.D.C. No. 47284. S. No. 51-249 T.)

QUANTITY: 44,720 lbs. at Portland, Oreg.

SHIPPED: 3-23-62, from Nampa, Idaho, by Kellogg Mills.

LIBELED: 4-17-62, Dist. Oreg.

CHARGE: 402(a)(3)—contained insect-damaged kernels when shipped.

DISPOSITION: 5-29-62. Consent—claimed by Kelloggs, Inc., and denatured.

28323. Wheat. (F.D.C. No. 47530. S. No. 63-436 T.)

QUANTITY: 110,910 lbs. at Superior, Wis.

SHIPPED: 5-11-62, from Flaxton, N. Dak., by Victoria Elevator Co.

LIBELED: 6-4-62, W. Dist. Wis.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 6-14-62. Consent—claimed by Victoria Elevator Co., and denatured.

28324. Wheat. (F.D.C. No. 47772. S. No. 35-396 T.)

QUANTITY: 76,800 lbs. at Minneapolis, Minn.

SHIPPED: 6-11-62, from Baker, N. Dak., by Farmers Union Cooperative Elevator Co.

LIBELED: 6-22-62, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-6-62. Consent—claimed by Farmers Union Cooperative Elevator Co., and denatured.

28325. Wheat. (F.D.C. No. 47779. S. No. 33-182 T.)

QUANTITY: 47,040 lbs. at Minneapolis, Minn.

SHIPPED: 6-16-62, from Velva, N. Dak., by Farmers Union Elevator.

LIBELED: 6-27-62, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-9-62. Consent—claimed by Velva Farmers Union Elevator Co., and denatured.

28326. Wheat. (F.D.C. No. 47786. S. No. 70-507 T.)

QUANTITY: 120,000 lbs. at Duluth, Minn.

SHIPPED: 6-11-62, from Epping, N. Dak., by Farmers Union Grain Co.

LIBELED: 6-29-62, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-16-62. Consent—claimed by Farmers Union Grain Co. and denatured.

28327. Wheat. (F.D.C. No. 45846. S. No. 54-681 R.)

QUANTITY: 62,000 lbs. at Minneapolis, Minn.

SHIPPED: 6-10-61, from Wahpeton, N. Dak., by Peavey Elevators.

LIBELED: 6-28-61, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-19-61. Consent—claimed by Farmers Union Marketing Association, St. Paul, Minn.; 2,840 lbs. segregated to be denatured and used as animal feed.

28328. Wheat. (F.D.C. No. 47790. S. No. 33-425 T.)

QUANTITY: 40,030 lbs. at Superior, Wis.

SHIPPED: 6-22-62, from Fessenden, N. Dak., by O & M Elevator Co.

LIBELED: 7-2-62, W. Dist. Wis.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-21-62. Consent—claimed by Osborne-McMillan Elevator Co., and denatured.

28329. Wheat. (F.D.C. No. 47812. S. No. 70-786 T.)

QUANTITY: 120,000 lbs. at Duluth, Minn.

SHIPPED: 7-11-62, from Marion, N. Dak., by Marion Equity Elevator Co.

LIBELED: 7-27-62, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 8-8-62. Consent—claimed by Marion Equity Elevator Co., and denatured.

28330. Rice. (F.D.C. No. 47070. S. Nos. 45-286/7 T, 47-324 T.)

INFORMATION FILED: 5-14-62, W. Dist. Tenn., against River Brand Rice Mills, Inc., Memphis, Tenn.

SHIPPED: Between 8-30-61 and 9-7-61, from Tennessee to Missouri.

LABEL IN PART: (Pkg.) "RIVER Brand Natural Brown Rice 12 Oz. Net Wt. Packers: River Brand Rice Mills, Inc." and "RIVER Brand Net Wt. 2 Lbs. (32 Ozs.) Fluffy White RICE Packers: River Brand Rice Mills, Inc."

CHARGE: 402(a)(3)—contained insect larvae, insect fragments, and insect excreta; and 402(a)(4)—prepared and held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 6-14-62. \$3,000 fine.

28331. Rice. (F.D.C. No. 47677. S. No. 41-450 T.)

QUANTITY: 8 100-lb. bags at New York, N.Y.

SHIPPED: 4-22-62, from South Dos Palos, Calif.

LIBELED: 6-25-62, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 8-15-62. Default—destruction.

28332. Rice. (F.D.C. No. 47979. S. No. 88-210 T.)

QUANTITY: 11 100-lb. bags at Tallahassee, Fla., in possession of Daffin Mercantile Co.

SHIPPED: 5-26-62, from Stuttgart, Ark.

LIBELED: 8-16-62, N. Dist. Fla.

CHARGE: 402(a)(3)—contained insects, insect larvae, and insect fragments; 402(a)(4)—held under insanitary conditions.

DISPOSITION: 9-10-62 and 9-11-62. Default—delivered to a public institution for use as animal feed.

28333. Rice. (F.D.C. 40669. S. Nos. 57-918/20 R, 60-890 R.)

INFORMATION FILED: 2-15-62, W. Dist. La., against Louisiana Rice Growers, Inc., Crowley, La., and Michel W. Muller, manager.

SHIPPED: Between 3-3-61 and 4-26-61, from Crowley, La., to Allendale, S.C., and St. Louis, Mo.

LABEL IN PART: (Bag) "DELTA CHIEF BRAND Finest Quality Long Grain RICE Net Wt. 2 Pounds [or 3 Pounds] Packed By LOUISIANA RICE GROWERS, INC. CROWLEY, LA."; DELTA BOY BRAND Finest Quality Long Grain RICE Net Wt. 3 Pounds Packed By LOUISIANA RICE GROWERS, INC. CROWLEY, LA."

CHARGE: 402(a)(4)—when shipped, the rice had been prepared and packed under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 9-20-62. Corporation—\$1,000 fine; individual—\$400 fine, 30 days imprisonment which was suspended, and probation for 1 year.

28334. Bran muffin mix. (F.D.C. No. 41323. S. No. 76-786 M.)

QUANTITY: 1 50-lb. bag at Portsmouth, N.H.

SHIPPED: 12-11-57, from Boston, Mass.

LIBELED: 1-13-58, Dist. N.H.

CHARGE: 402(a) (3)—contained insects.

DISPOSITION: 3-20-58. Default—destruction.

28335. Batter mixes, breeding mixes, and bread crumbs. (F.D.C. No. 47557. S. Nos. 7-434 T, 7-436/40 T.)

QUANTITY: 493 50-lb. bags of commingled lots of batter mix and breeding mix; 333 100-lb. bags of commingled lots of breeding mix, bread crumbs, and shrimp bread; 105 50-lb. bags of breeding mix; 6 50-lb. bags of preduster; 31 75-lb. bags of bread crumbs; and 158 100-lb. bags of batter mix, at Boston, Mass., in possession of Kelso Warehouses, Inc.

SHIPPED: Between 1957 and 8-28-61, from Chicago, Ill.

LIBELED: 4-23-62, Dist. Mass.

CHARGE: 402(a) (3)—contained rodent urine, rodent excreta, insects, insect larvae, and insect parts; and 402(2) (4)—held under insanitary conditions.

DISPOSITION: 5-29-62. Default—delivered to a public institution for use as animal feed.

28336. Cake mix. (F.D.C. No. 47549. S. No. 15-846 T.)

QUANTITY: 89 cases, 24 pkgs. each, at Covington, Ky.

SHIPPED: 1-16-62, from Chicago, Ill., by G. A. Goodrich Co.

LABEL IN PART: (Pkg.) "Good-N-Rich Yellow Cake Mix * * * Net Wt. 8 Oz. Manufactured by G. A. Goodrich Co., Chicago, Ill."

RESULTS OF INVESTIGATION: Examination showed the article to be short weight.

LIBELED: 4-16-62, E. Dist. Ky.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 6-12-62. Default—delivered to charitable institutions.

28337. Cake mix sets (toy). (F.D.C. No. 46601. S. Nos. 94-769/70 R.)

QUANTITY: 76 pkgs. at Detroit, Mich.

SHIPPED: 4-24-61, from Chicago, Ill., by Plastic Block City, Inc.

LABEL IN PART: (Pkg.) "Kay Stanley's Cake Mix Set A Complete Baking Set For Junior Cooks * * * with Real Food * * * an educational toy for baking miniature cakes. This set contains assorted Kay Stanley cake mixes, enough for 6 cakes, 6 packets frosting, 1 packet cake decorations * * * Manufactured by Plastic Block City, Inc. 1017 W. Washington Blvd. Chicago 7, Illinois."

RESULTS OF INVESTIGATION: Examination showed that the article contained a strawberry frosting mix which contained FD&C Red No. 1.

LIBELED: 10-24-61, E. Dist. Mich.

CHARGE: 402(c)—when shipped, the article contained a color additive, FD&C Red No. 1, which was unsafe within the meaning of 706(a) as amended, since the provisional listing of such color additive in the color additive regulations had been terminated pursuant to Section 8.502(c) and the certificate for such color additive had been cancelled pursuant to Section 8.510(b) of such regulations.

DISPOSITION: 12-13-61. Consent—claimed by Plastic Block City, Inc., and the strawberry frosting mix destroyed.

28338. Cake mix sets (toy). (F.D.C. No. 46403. S. Nos. 80-576/7 R.)

QUANTITY: 24 12-unit cases at Boston, Mass.

SHIPPED: 5-18-61, from Chicago, Ill., by Plastic Block City, Inc.

LABEL IN PART: (Pkg.) "Kay Stanley's Cake Mix Set A Complete Baking set for Junior Cooks * * * with Real Food * * * an educational toy for baking miniature cakes. This set contains assorted Kay Stanley Cake Mixes, enough for 6 cakes, 6 packets frosting, 1 packet cake decoration * * * Manufactured by Plastic Block City, Inc. 1017 W. Washington Blvd., Chicago 7, Ill."

RESULTS OF INVESTIGATION: Examination revealed that the package of strawberry frosting mix in each baking set contained FD&C Red No. 1.

LIBELED: 12-14-61, Dist. Mass.

CHARGE: 402(c)—when shipped, the article contained a color additive, namely, FD&C Red No. 1, which was unsafe within the meaning of 706(a) as amended, since the provisional listing of such additive had been terminated and the certificate for such color additive had been cancelled.

DISPOSITION: 12-14-61. Consent—claimed by Plastic Block City, Inc., and reconditioned by the removal and destruction of the packages of strawberry frosting mix.

28339. Donut mix. (F.D.C. No. 46717. S. Nos. 93-419 R, 38-404 T, 45-281 T, 45-410 T.)

INFORMATION FILED: 4-17-62, E. Dist. Ark., against Alamo Foods, Inc., Little Rock, Ark., and Milton B. Lambert, president.

SHIPPED: Between 8-4-61 and 8-8-61, from Arkansas to Louisiana and Oklahoma.

LABEL IN PART: "HOL-'N-ONE DONUT MIX 50 LBS. (10-5's) WHEN PACKED."

CHARGE: 402(a) (3)—contained insects and insect fragments; and 402(a) (4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 5-21-62. Corporation—\$250 fine, and probation for 1 year; individual—\$250 fine, and probation for 1 year.

DAIRY PRODUCTS

BUTTER

28340. Butter. (F.D.C. No. 45654. S. No. 53-150 R.)

INFORMATION FILED: 7-28-61, Dist. Minn., against Detroit Cooperative Dairy Association, Detroit Lakes, Minn., and Paul E. Ross, manager.

ALLEGED VIOLATIONS: On 1-9-61, the defendants gave to a firm engaged in the business of shipping butter in interstate commerce, a manifest containing a guaranty that the butter listed on the manifest was not adulterated within the meaning of the Federal Food, Drug, and Cosmetic Act. On 1-9-61, the defendants caused a number of boxes of food which were labeled "Bulk Butter" and which was adulterated, to be delivered to the holder of the guaranty.

CHARGE: 402(b)(1)—a valuable constituent of the food, namely, milk fat, had been in part omitted; and 402(b)(2)—a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

PLEA: Guilty.

DISPOSITION: 10-8-62. Association—\$100 fine; individual—\$200 fine.

CHEESE

28341. Danish blue cheese. (F.D.C. No. 47589. S. Nos. 44-401 T, 44-404 T.)

QUANTITY: 52 boxes, 12 pkgs. each, and 5 cases, 24 boxes, 12 pkgs. each, at Philadelphia, Pa.

SHIPPED: (52 boxes) 3-27-62 and (5 cases) 4-25-62, from New York, N.Y., by William Faehndrich, Inc.

LABEL IN PART: (Foil wrapper) "Famous Brand Imported Danish Blue Cheese Net Wt. $\frac{3}{4}$ Oz. * * * Packed by William Faehndrich, Inc., New York, N.Y."

RESULTS OF INVESTIGATION: Examination showed the article to be short weight.

LIBELED: 5-10-62, E. Dist. Pa.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 6-20-62. Default—destruction.

28342. Feta cheese. (F.D.C. No. 47604. S. No. 61-881 T.)

QUANTITY: 27 110-lb. bbls. at Boston, Mass.

SHIPPED: 6-9-61, from Sassari and Thiesi, Italy.

LIBELED: 5-16-62, Dist. Mass.

CHARGE: 402(a)(3)—while held for sale, the article contained decomposed cheese.

DISPOSITION: 7-16-62. Default—destruction.

28343. Roquefort cheese. (F.D.C. No. 47605. S. No. 69-408 T.)

QUANTITY: 67 boxes, 24 individually wrapped wedges each, at Washington, D.C.

SHIPPED: 4-9-62, from New York, N.Y., by William Faehndrich, Inc.

LABEL IN PART: (Wedges) "Famous Brand Roquefort Cheese Made in France Net Weight $\frac{3}{4}$ Oz. * * * William Faehndrich, Inc. Packers, New York, N.Y."

RESULTS OF INVESTIGATION: Examination showed the article to be short weight.

LIBELED: 5-15-62, Dist. Columbia.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 6-13-62. Default—destruction.

MILK

28344. Evaporated milk. (F.D.C. No. 46115. S. No. 88-664 R.)

QUANTITY: 223 cases, 48 cans each, at North Kansas City, Mo.

SHIPPED: 3-11-61, from Coffeyville, Kans., by Page Milk Co.

LABEL IN PART: (Can) "First Pick Brand Homogenized Evaporated Milk Vitamin D Increased Net Wt. 14½ Ozs. * * * 8 U.S.P. Units Vitamin D per fluid oz. extracted from cod liver oil. Packed for The Fleming Co., Inc. * * * The Schumacher Co. Houston."

RESULTS OF INVESTIGATION: Analysis showed that the article contained the declared amount of vitamin D, which was 68 percent less than the amount required by the definition and standard of identity for evaporated milk with vitamin D content increased.

LIBELED: 7-26-61, W. Dist. Mo.

CHARGE: 403(g) (1)—when shipped, the article failed to conform to the definition and standard of identity for evaporated milk with vitamin D content increased.

DISPOSITION: 5-7-62. Consent—claimed by Page Milk Co., for reprocessing and repacking.

28345. Evaporated milk and miscellaneous canned goods. (F.D.C. No. 46961. S. Nos. 43-402 T, 43-405 T.)

QUANTITY: 12 cases, each containing 48 14½-oz. cans of evaporated milk and 31 cases of miscellaneous canned goods, at Dover, Del.

SHIPPED: Between 8-17-61 and 12-12-61, from Philadelphia, Pa.

RESULTS OF INVESTIGATION: Examination showed that the articles were decomposed and that some of the articles were contained in dented, rusty, pinholed cans, through which the article was leaking. Some of the miscellaneous canned goods were unlabeled and some of them bore labels that were illegible.

LIBELED: 2-21-62, Dist. Del.

CHARGE: 402(a) (3)—the evaporated milk and the miscellaneous canned goods contained decomposed substances while held for sale.

403(e) (1)—while held for sale, the miscellaneous canned goods failed to bear labels containing the name and place of business of the manufacturer, packer, and distributor; 403(e) (2)—the articles failed to bear labels containing an accurate statement of the quantity of contents; 403(i) (1)—the label failed to bear the common or usual name of the food; 403(i) (2)—the label failed to bear the common or usual name of each ingredient.

DISPOSITION: 6-12-62. Default—destruction.

EGGS

28346. Frozen eggs. (F.D.C. No. 47627. S. No. 5-167 T.)

QUANTITY: 75 30-lb. cans at Washington, D.C.

SHIPPED: 5-22-62, from Baltimore, Md., by Supreme Dairy Products, Inc.

LABEL IN PART: "Supreme Products, Baltimore, Md. * * * Frozen Whole Eggs."

LIBELED: 5-29-62, Dist. Columbia.

CHARGE: 402(a) (3)—contained decomposed eggs when shipped.

DISPOSITION: 6-19-62. Consent—claimed by Isadore E. Silverman, t/a Supreme Products Co. Segregated; 13 cans destroyed.

28347. Frozen eggs. (F.D.C. No. 47489. S. No. 11-966 T.)

QUANTITY: 639 cans, 30 lbs. each, at Buffalo, N.Y.

SHIPPED: 4-30-62, from Cleveland, Ga., by Cleveland Egg Co.

LIBELED: 5-14-62, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 7-18-62. Consent—claimed by Cleveland Egg Co. Segregated; 104 cans denatured.

28348. Frozen eggs. (F.D.C. No. 47666. S. No. 8-897 T.)

QUANTITY: 405 30-lb. cans at Taunton, Mass., in possession of Henry R. Deniger.

SHIPPED: On unknown dates, from Massachusetts and Connecticut.

LABEL IN PART: (Can) "Packed by Henry R. Deniger Native Eggs 205 Whittenton St., Taunton, Mass. * * * Frozen Whole Eggs."

RESULTS OF INVESTIGATION: The frozen eggs were prepared by the dealer from shell eggs received from various producers in Massachusetts and Connecticut.

LIBELED: 6-11-62, Dist. Mass.

CHARGE: 402(a)(3)—contained decomposed eggs while held for sale.

DISPOSITION: 7-30-62. Consent—claimed by Henry R. Deniger, Taunton, Mass. Segregated; 27 30-lb. cans destroyed.

28349. Incubator reject eggs. (F.D.C. No. 47619. S. No. 40-127 T.)

QUANTITY: 600 cases (one truck load) at Elizabeth, N.J.

SHIPPED: 5-23-62, from Joaquin, Tex., by Charles J. Wallis, t/a Wallis Hatcheries.

LIBELED: On or about 5-28-62, Dist. N.J.

CHARGE: 402(a)(3)—when shipped, contained decomposed eggs and was otherwise unfit for food.

DISPOSITION: 6-18-62. Default—destruction.

FISH AND SHELLFISH

28350. Frozen flounder fillets. (F.D.C. No. 47421. S. No. 14-447 T.)

QUANTITY: 155 cases, each containing 10 5-lb. ctns., each ctn. containing 6 pkgs. of cellophane-wrapped fish fillets, at Chicago, Ill.

SHIPPED: 11-28-61, from Boston, Mass., by Crocker & Winsor.

LIBELED: 3-27-62, N. Dist. Ill.

CHARGE: 402(a)(3)—contained decomposed fish fillets when shipped.

DISPOSITION: 8-8-62. Consent—claimed by Pick-Shapiro Fisheries, Inc., Chicago, Ill., and returned to original foreign supplier.

28351. Frozen trout. (F.D.C. No. 47459. S. No. 23-887 T.)

QUANTITY: 51 cases, 12 packages each, at Denver, Colo.

SHIPPED: 3-31-62, from Twin Falls, Idaho, by Idaho Trout Processors.

LABEL IN PART: (Pkg.) "Booth Rocky Mountain Rainbow Trout * * * Packed for Booth Fisheries Corporation * * * Chicago 6, Illinois"; (case) "12 10-

Oz. Booth Rocky Mountain Trout * * * Canyon Trout Farm Twin Falls, Idaho."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 4-18-62, Dist. Colo.

CHARGE: 403(a)—when shipped, the label statements (case) "12 10-Oz." and (pkg.) "Net Wt. 10-Oz." were false and misleading; and 403(e)(2)—the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 8-23-62. Default—delivered to a public institution for human use and not for resale.

28352. Frozen perch fillets (4 seizure actions). (F.D.C. Nos. 45468, 45469, 45481, 45482. S. Nos. 99-224/6 R, 99-318 R.)

QUANTITY: 218 cases, each containing 10 5-lb. pkgs. at Rockland, Maine, in possession of 40-Fathom Fisheries, Inc., 906 cases, each containing 10 5-lb. pkgs. at Quincy, Mass., and 2,975 cases, each containing 12 12-oz pkgs., at Watertown, Mass.

SHIPPED: The fillets in the lots at Quincy and Watertown, Mass., were shipped on 12-20-60 and 12-21-60, from Rockland, Maine, by 40-Fathom Fisheries, Inc. The fillets in the lot at Rockland, Maine were from fish caught by the fishing vessel "Storm" in the waters of the Atlantic Ocean outside the territorial limits of the State of Maine and delivered to Rockland, Maine, on or about 12-19-60.

LABEL IN PART: (Pkg.) "Birds Eye Ready to Cook! Ocean Perch Fillets Distributed by Birds Eye Div. of General Food Corp., White Plains, N.Y."; (pkg.) "Plate Frozen * * * Port-O-Rockland * * * Quick Frozen Ocean Perch fillets Ready to Cook 40-Fathom Fisheries, Inc. Rockland, Me."; (insert label) "Port-O-Rockland Ocean Perch Fillets Quick Frozen Distributed by 40-Fathom Fisheries, Inc., Rockland, Maine."; and "40-Fathom Ocean Perch Fillets * * * Distributed by 40-Fathom Fisheries, Inc. Rockland, Me."

LIBELED: 2-17-61, Dist. Maine, and 2-10-61, 2-15-61, and 2-17-61, Dist. Mass. Amended libels, on or about 3-19-61, Dist. Maine, and 3-2-61, Dist. Mass.

CHARGE: 402(a)(3)—when shipped (Quincy and Watertown lots) and while held for sale (Rockland lot), the article consisted in part of a decomposed substance by reason of the presence therein of decomposed fish fillets.

DISPOSITION: The 4 actions were consolidated for trial in the Dist. of Maine. All of the fillets were claimed by 40-Fathom Fisheries, Inc. The matter came to trial after exchange of interrogatories before the court sitting without a jury on 4-25-61. On 6-30-61, the court issued finding of facts and conclusions of law (reported at 196 F. Supp. 255), wherein it was found that all lots consisted of more than 6 percent Class 3 fillets (Class 3 fillets being described as having a strong and offensive odor of decomposition) as classified through organoleptic tests and therefore were adulterated because they consisted in part of a decomposed substance by reason of the presence of more than 6 percent Class 3 fillets.

On 9-13-61, a consent decree of condemnation was entered which provided for the release of the goods under bond to be brought into compliance with the law. Segregated; 18,388 lbs. destroyed.

28353. Canned anchovies. (F.D.C. No. 47431. S. No. 55-972 T.)

QUANTITY: 194 bundles, 4 ctns. each, of 25 2-oz. tins each, at Jersey City, N.J.

SHIPPED: From Portugal on an unknown date.

LIBELED: 4-11-62, Dist. N.J.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 5-24-62. Default—destruction.

28354. Crabmeat. (F.D.C. No. 47636. S. Nos. 64-341/3 T.)

QUANTITY: 480 1-lb. cans at Baltimore, Md.

SHIPPED: 6-5-62, from Welaka, Fla., by O. H. Morris Crab Co.

LABEL IN PART: (Can) "O H Morris Crab Co Welaka Fla FLA 36 C Fresh Regular [or "Fresh Backfin" or "Fresh Claw"] Crabmeat * * * Net Wt. 1 Lb."

LIBELED: On or about 6-8-62, Dist. Md.

CHARGE: 402(a)(4)—prepared under insanitary conditions.

DISPOSITION: 6-29-62. Default—destruction.

28355. Canned shrimp. (F.D.C. No. 47544. S. No. 50-819 T.)

QUANTITY: 48 cases, 24 4½-oz. cans each, at San Francisco, Calif.

SHIPPED: 3-16-62, from Seattle, Wash., by Can-Go Shippers Association.

LABEL IN PART: (Can) "Carnation Tiny Alaska Shrimp * * * Distributed by Seafare Corp. Los Angeles, Calif."

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 49 percent of broken shrimp.

LIBELED: 6-11-62, N. Dist. Calif.

CHARGE: 402(b)(2)—when shipped, broken shrimp had been substituted in part for whole shrimp; and 403(a)—the label statement "Shrimp" and vignette depicting whole, unbroken shrimp was false and misleading.

DISPOSITION: 7-18-62. Default—delivered to a charitable institution for use as human food but not for sale.

28356. Canned shrimp. (F.D.C. No. 47543. S. No. 66-604 T.)

QUANTITY: 14 cases, 24 6-oz. cans each, at Denver, Colo.

SHIPPED: 3-30-62, from Seattle, Wash., by Whiz Fish Products Co.

LABEL IN PART: (Can) "Snow Mist Brand Cocktail Shrimp * * * Tiny (Cocktail) Size Shrimp * * * Distributed by Whiz Fish Products Co., Seattle, Wash."

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 63 percent of broken shrimp.

LIBELED: 6-13-62, Dist. Colo.; amended libel 6-20-62.

CHARGE: 402(b)(2)—when shipped, broken shrimp had been substituted in part for whole shrimp; and 403(a)—the label statement "Shrimp" and vignette depicting whole, unbroken shrimp was false and misleading.

DISPOSITION: 8-2-62. Default—delivered to a public institution for its use and not for sale.

FRUITS AND VEGETABLES

CANNED FRUIT

28357. Maraschino cherries. (F.D.C. No. 47616. S. Nos. 61-002/3 T.)

QUANTITY: 24 cases, each containing 24 jars, and 34 cases, each containing 24 jars, at Holland, Mich.

SHIPPED: 12-26-61 and 1-16-62, from Chicago, Ill., by M. Wolff & Sons.

LABEL IN PART: (Jar) "Food Club Maraschino Cherries Distributed By Topco Associates, Inc., Chicago, Ill. * * * Contents 4 Fl. Oz. [or "8 Fl. Oz."]."

RESULTS OF INVESTIGATION: Examination showed that the article (both lots) was short in volume.

LIBELED: 5-25-62, W. Dist. Mich.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 7-9-62. Default—destruction.

28358. Glaced fruit. (F.D.C. No. 46518. S. No. 9-577 T.)

QUANTITY: 24 ctns., each containing 1 35-lb. tin, at Perry, N.Y.

SHIPPED: 9-18-61, from North East, Pa., by Ohio Fruit Co., Inc.

LABEL IN PART: (Cans and ctns.) "Garden of Eden Glaced Diced Fruit Red Citron Net weight 35 pounds * * * Packed by Ohio Fruit Products Co., Inc., North East, Pa."

LIBELED: 11-1-61, W. Dist., N.Y.

CHARGE: 402(a)(3)—contained *Drosophila* flies; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 2-7-62. Consent—claimed by shipper and destroyed.

28359. Glaced cherries. (F.D.C. No. 47620. S. Nos. 44-059 T, 44-301 T.)

QUANTITY: 10 30-lb. ctns. at Trenton, N.J.

SHIPPED: 4-3-62, from New London, Conn., by deRedon Food Products Corp.

LABEL IN PART: (Ctn.) "Normandy Cherries Whole and Broken * * * Contains Artificial Flavor & Color $\frac{1}{10}$ of 1% Benzoate of Soda Sulphur Dioxide Present Net Weight 30 Lbs. Packed By The deRedon Food Products Corp. New London, Conn."

LIBELED: 6-5-62, Dist. N.J.

CHARGE: 402(a)(3)—contained insects, insect parts, *Drosophila* fly eggs and maggots when shipped; and 402(a)(4)—prepared and packed under insanitary conditions; and 403(k)—the label failed to state that benzoate of soda and sulphur dioxide, declared to be present in the article, were chemical preservatives.

DISPOSITION: 7-3-62. Default—destruction.

28360. Cherries in cherry liqueur. (F.D.C. No. 47562. S. No. 41-752 T.)

QUANTITY: 173 cases, 12 1-lb. 7-oz. btls. each, at New York, N.Y.

SHIPPED: Imported 12-15-61, from Italy, by Liberty Import Corp.

LABEL IN PART: (Btl.) "Fabbri Italian Cherries in Cherry Liqueur light sugar syrup and brandy Product of Italy G. Fabbri S.p.A. Bologna (Italy) Net Weight: 1 Lb. 7 Oz."

LIBELED: 4-30-62, S. Dist. N.Y.

CHARGE: 402(c)—when shipped, the article contained a color additive, "New Coccin," C.I. No. 16255, an isomer of FD&C Red No. 2, Amaranth, which color additive was unsafe within the meaning of 706(a) since it and its use in food were not in conformity with a regulation or exemption in effect pursuant to 706.

DISPOSITION: 7-27-62. Consent—claimed by Liberty Import Corp., and released under bond for return to the original supplier.

VEGETABLES AND VEGETABLE PRODUCTS

28361. Lettuce. (F.D.C. No. 45679. S. No. 26-502 R.)

INFORMATION FILED: 8-17-61, Dist. Ariz., against Bodine Produce Co., Inc. Phoenix, Ariz. Amended information filed 1-24-62.

SHIPPED: 12-6-60, from Glendale, Ariz., to Milwaukee, Wis.

LABEL IN PART: "Produce of U.S.A. Mr. Big Head Lettuce Shipping in Season from Arizona and California Growers. Bodine Produce Company. Shippers Main Office: Phoenix, Arizona."

CHARGE: 402(a)(2)(B)—when shipped, the lettuce was a raw agricultural commodity and it contained a pesticide chemical, namely, DDT, which was unsafe within the meaning of 408(a) since the quantity of such pesticide chemical on the article was not within the limits of the tolerance prescribed by regulations.

PLEA: Not guilty.

DISPOSITION: On 3-6-62, the case came on for trial before judge and jury; and on 3-7-62, the jury returned a verdict of guilty. On 3-9-62, the defendant was fined \$500, plus costs. On 3-12-62, defendant filed a motion for a new trial, objections to the memorandum of costs and disbursements, motion to review the order taxing costs, and a motion for judgment of acquittal notwithstanding the verdict. Subsequently, the court rendered the following memorandum decision:

BOLDT, District Judge: "At various stages in this proceeding—during the trial, after the jury's verdict of guilty, at the time of sentencing, and in considering defendant's motions subsequent to sentencing—the Court has carefully evaluated the issues raised by the defendant. These issues merit a more extended presentation of the views of the Court than as previously stated extempore.

"The case arose as a misdemeanor criminal action under the Federal Food, Drug, and Cosmetic Act. In the Amended Information filed by the United States Attorney, the defendant was charged with having violated that Act by causing adulterated lettuce to be introduced and delivered for introduction into interstate commerce at Glendale, Arizona, consigned to Milwaukee, Wisconsin [21 U.S.C. 331(a)].

"The lettuce was alleged to be adulterated within the meaning of 21 U.S.C. 342(a)(2)(B) in that it was a raw agricultural commodity and it contained a pesticide chemical, namely DDT, which was unsafe within the meaning of 21 U.S.C. 346a(a) since the quantity of such pesticide chemical on the lettuce was not within the limits of the tolerance for DDT prescribed by regulations of the Secretary of Health, Education, and Welfare.

"Pertinent regulations of the Secretary, issued by statutory authority, established a tolerance or permissible limit of 7 parts per million for DDT on lettuce [21 CFR 120.101(e)(49); 21 U.S.C. 346a(a) and (k); 21 U.S.C. 346; 21 U.S.C. 371(a) and (e)].

"Upon the evidence adduced at the trial, the jury obviously concluded that the lettuce shipped by the defendant in this instance contained DDT in excess of 7 parts per million. In fact there was no substantial evidence to the contrary.

"The defense attempted to introduce extraneous issues in the case which, in the opinion of the Court, would have tended to confuse the jury if evidence thereon had been admitted. These issues included (1) a collateral attack on the validity of the regulations, (2) an offer to show lack of danger to health, and (3) an assertion that defendant's shipment of lettuce came within the exemption proviso in 21 U.S.C. 342(a)(2). Evidence bearing on these issues was excluded at the trial for the reasons hereinafter given.

"1. Collateral Attack on the Regulations

"Defendant conceded that the Secretary of Health, Education, and Welfare has the authority to establish tolerances for pesticide chemicals on raw agricultural commodities but contended that he exercised his discretion in an arbitrary and capricious manner. It was therefore defendant's intention to question the validity of the regulation and to show that a much greater tolerance should have been established for DDT on lettuce.

"This Court is not the proper forum in which to raise such issues or to seek review of the merits of the regulations.

"The statute prescribes a procedure to obtain direct judicial review of the merits of such regulations in a *United States Court of Appeals* by filing a petition within 90 days after the regulations are issued [21 U.S.C. 371(f)(1); see also 21 U.S.C. 346a(i)(1)]. The judgment of the Court of Appeals is final subject to review by the United States Supreme Court [21 U.S.C. 371(f)(4); see also 21 U.S.C. 346a(i)(5)].

"The regulations on which this case hinges were issued by the Secretary and were published on March 11, 1955 [20 Federal Register 1473]. No statutory appeal was taken by the defendant or by anyone else.

"Had there been direct judicial review pursuant to the statute and had the validity of the regulations been sustained in that proceeding, there can be no doubt that the merits of the regulations would no longer be open to judicial scrutiny in a subsequent proceeding to enforce the regulations. See *City of Tacoma v. The Taxpayers of Tacoma*, 1958, 357 U.S. 320, 336-337.

"If direct judicial review is not sought within the 90-day period allowed by the statute, the right to such review is lost and the regulations become final in the same way as they would if affirmatively upheld on direct review.

"In a collateral action such as this one to enforce a regulation, it is not proper for the defendant to challenge the regulation upon any grounds other than the statutory requirements relating to notice and hearing. *Byrd v. United States*, 5 Cir., 1946, 154 F. 2d 62, 63-64. These requirements are essentially statutory rather than constitutional because there is no fundamental right to a hearing in the rule-making¹ process. Thus in *Willapoint Oysters, Inc. v. Ewing*, 9 Cir., 1949, 174 F. 2d 676, cert. den. 338 U.S. 860, which was a direct appeal from a rule-making regulation under the Federal Food, Drug, and Cosmetic Act, the Court said at page 694:

. . . in legislation, or rule-making, there is no constitutional right to any hearing whatsoever. Thus the requirements of any hearing are to be tested solely by the statute so providing, which may or may not import constitutional concepts.

"In any event, the regulation now before the Court was adopted in full compliance with the procedural requirements of notice and hearing as prescribed by the statute [21 U.S.C. 371(e)]. A Notice of Hearing was published in the Federal Register on September 17, 1949 [14 Federal Register 5724]. It stated that a public hearing would be held commencing January 17, 1950, at a designated address, upon proposals to issue regulations limiting the quantity of poisonous or deleterious residues on fresh fruits and fresh vegetables.

"Pursuant to this Notice, a lengthy public hearing ('at a cost of nearly a half-million dollars to the Government, to industry, to agricultural organizations, and to the various land-grant colleges') was held which required protracted study before regulations could be issued. [Senate Report No. 1635, published in U.S. Code Congressional and Administrative News, 1954, Vol. 2, pages 2626, 2627.]

¹ The regulation establishing the tolerance for DDT in lettuce is rule-making since it declares a rule of conduct that applies to all persons who deal with lettuce in interstate commerce.

"On October 20, 1954, the Secretary published a Notice of Proposed Rule Making stating proposed findings and proposed tolerances for a number of poisonous and deleterious substances on a number of fresh fruits and vegetables [19 Federal Register 6738]. With respect to DDT on lettuce, the proposed tolerance was 7 parts per million [19 Federal Register 6770]. Interested persons were given 60 days to file written exceptions [19 Federal Register 6772].

"On March 11, 1955, a final order² was published establishing tolerances for pesticide residues in or on fresh fruits and vegetables [20 Federal Register 1473]. The tolerance for DDT in or on lettuce is 7 parts per million [20 Federal Register 1506]. No direct judicial review was sought within the 90-day period permitted by 21 U.S.C. 371(f)(1).

"For these reasons, the statutory requirements relating to notice and hearing were fully met. There is no basis for challenging the validity of the regulations on procedural grounds and no other grounds may properly be urged in this Court.

"The statute and regulations provide a procedure to amend or repeal the regulations [21 U.S.C. 346a(m); 21 CFR 120.32; 21 U.S.C. 346a(e); 21 U.S.C. 371(e)]. The Court is not advised, however, of any attempt to amend or repeal the regulations establishing a tolerance of 7 parts per million for DDT on lettuce. If there are sound reasons for changing the regulations, those reasons should be urged before the Secretary in conformity with the procedure prescribed for that very purpose. The Secretary's action (or inaction) will then be subject to direct judicial review under 21 U.S.C. 371(f)(1), 21 U.S.C. 346a(e), (d)(5), and (i)(1).

"Defendant relied upon *United States v. Lord-Mott Co.*, D.C.D. Md., 1944, 57 F. Supp. 128, as authority for the proposition that regulations such as these may be collaterally attacked in an enforcement action. There the defendant was charged with the interstate shipment of canned peas which, by reason of excessive mealiness, did not conform to a standard of quality established by regulation 4 years earlier. No one had sought direct judicial review of that regulation within 90 days after its issuance, through the procedure authorized by 21 U.S.C. 371(f). At the trial, the District Court permitted defense witnesses to testify in effect that the regulation did not permit enough mealiness. The Court then concurred in this view and concluded that the regulation was too rigid and was invalid. Speaking of a critical administrative finding of fact in the regulation, the District Court said at page 133:

Whether this finding is actually supported by the weight of the credible testimony at the hearing which led up to the promulgation of the regulation, we do not purport to determine. It is not necessary to do so because . . . defendant is not controlled by what was proved or decided by that hearing, but has a right to have this Court decide the question of the regulation's validity upon the evidence produced before it.

"This Court does not agree that defendant is entitled to a *de novo* hearing in a District Court on the merits of such a regulation in an action brought to enforce that regulation. Under the *Lord-Mott* case, a person need not exhaust his administrative remedies in seeking modification of a regulation nor need he follow the statutory procedure for exhausting his remedy at law by seeking direct judicial review. Whenever an enforcement action is brought against him he could ask the District Court to disregard the regulation and to sit as a super-administrative body to hear voluminous testimony *de novo* as to what is a proper food standard or a proper tolerance for pesticide chemicals on raw agricultural commodities. If there are 20 different enforcement actions against 20 different persons in 20 different district courts based upon 20 alleged violations of the same regulation, in each action there could be an independent *de novo* hearing.

"Furthermore, under the *Lord-Mott* holding, review of a regulation in a District Court in a collateral proceeding is far more sweeping in scope than the direct judicial review authorized by statute in a Court of Appeals and in the Supreme Court. The statutory procedure authorizes a Court of Appeals under

² From the record references in this order, it is clear that the record consisted of approximately 7,000 pages of testimony and more than 1,200 exhibits.

some circumstances to order additional evidence taken, not in Court, but *before the Secretary* [21 U.S.C. 371(f) (2) ; 21 U.S.C. 346a(i) (4)]. Also the statute includes the usual standard of judicial review, namely, that the findings of the Secretary shall be conclusive if supported by substantial evidence [21 U.S.C. 371(f) (3) ; 21 U.S.C. 346a(i) (2)]. Neither of these limitations on judicial review would apply in the District Court if the *Lord-Mott* ruling prevailed.

"*Federal Security Administrator v. Quaker Oats Co.*, 1943, 318 U.S. 218, is cited by the defendant but does not help its cause. That case was a review of the validity of a food standard but it arose under the *direct statutory appeal provisions*. [21 U.S.C. 371(f)]. Unquestionably, the Court of Appeals and the Supreme Court could scrutinize the regulation challenged by Quaker Oats in such a proceeding, but even there the Supreme Court observed on page 227 :

The Act does not contemplate that courts should thus substitute their judgment for that of the Administrator.

. . . the Administrator's findings as to the facts if based on substantial evidence are conclusive.

"In a collateral action to enforce the pesticide chemicals regulations, judicial inquiry into the validity of those regulations should embrace, at most, only questions that relate to notice and hearing.³ As already shown, there was full compliance with these requirements.

"2. *Danger to Health*

"In recent years, Congress has enacted three important amendments to the Federal Food, Drug, and Cosmetic Act: (1) the Pesticide Chemicals Amendment [21 U.S.C. 346a]; (2) the Food Additives Amendment [21 U.S.C. 348]; and (3) the Color Additives Amendment [21 U.S.C. 376].

"The underlying reason for these amendments is the growing concern of Congress⁴ over the widespread use of chemicals and other additives in foods and drugs, and their subtle, insidious, cumulative, interacting, and long-range effect upon the health of the nation.

"Each amendment follows essentially the same pattern. In an administrative proceeding, the proponent of the use of a particular chemical or other additive has the burden of establishing the safety of that item for a designated use. The Secretary of Health, Education, and Welfare then evaluates the safety of that item in accordance with legislative standards.⁵

"If a useful pesticide chemical can be applied safely on fruits and vegetables, it is apparently a guiding principle of the Secretary to limit the permissible residue of that chemical to the amount necessary for the protection of those crops, even if a greater amount might be tolerated safely by humans.⁶

"The Secretary was authorized to take into consideration 'the margin of safety which the public interest required.' See *United States v. Detroit &*

³ In recent years, Congress has streamlined the rule-making provisions of the Federal Food, Drug, and Cosmetic Act to dispense with hearings entirely and to permit regulations to become effective 30 days after publication unless a person, who will be adversely affected, files timely objections and requests a public hearing [21 U.S.C. 371(e) (1) and (2) ; see also 21 U.S.C. 346a(d) (5) and 21 U.S.C. 348(f) (1)]. This procedure makes it unnecessary to conduct lengthy and expensive hearings to establish facts not in dispute. Where a hearing is held, it is confined to "receiving evidence relevant and material to the issues raised by such objections" [21 U.S.C. 371(e) (3), 346a(d) (5), and 348(f) (1)].

⁴ Senate Report No. 1635, 1954 U.S. Code Congressional and Administrative News, pp. 2626 ff; Senate Report No. 2422, 1958 U.S. Code Congressional and Administrative News, pp. 5300 ff; Senate Report No. 795, 1960 U.S. Code Congressional and Administrative News, pp. 2887 ff.

⁵ For example, in establishing a tolerance for pesticide chemicals, the Secretary is required to "give appropriate consideration, among other relevant factors, (1) to the necessity for the production of an adequate, wholesome, and economical food supply; (2) to the other ways in which the consumer may be affected by the same pesticide chemical or by other related substances that are poisonous or deleterious; and (3) to the opinion of the Secretary of Agriculture as submitted with a certification of usefulness" [21 U.S.C. 346a(b)].

⁶ Finding 23, Pesticide Chemical Regulations, 20 Federal Register 1473, 1493, reads as follows:

Since many poisonous and deleterious substances are found in pesticide residues and the possible additive effect on the public health from all combinations of such substances is not known, and since the amounts of the separate poisonous and deleterious substances which experts believe may be tolerated by humans without hazard to man are at best only estimates, it will aid in the protection of the public health to limit the amount of such substances tolerated on fresh fruits and vegetables so that in no case is the amount tolerated greater than the maximum amount required for the protection of the fruits and vegetables against pests that may attack them.

Cleveland Navigation Co., 1945, 326 U.S. 236, 240. He was not required to set the tolerance at the maximum that the consumer (the old, the young, the weak, the strong, the sick and the well) might withstand 'by indulging in hair-splitting speculation as to whether the amount of poison used may possibly have been so nicely calculated as not to kill or be of immediate serious injury.' *United States v. 1,950 Boxes of Macaroni*, D.C., N.D. Ill., 1910, 181 Fed. 427. As was observed in *Atlas Powder Co. v. Ewing*, 3 Cir., 1952, 201 F. 2d 347, 355, 'One making role for the future which in practical effect will determine whether millions of people shall eat something every day may reasonably refuse to subject the general public to even slight risks and small deceptions.'

"Such then were some of the considerations which resulted in the establishment of tolerances for pesticide chemical residues that presumably are well within safety limits. Once the Secretary's regulation became final, the chemicals to which it relates are deemed to be *unsafe* unless their use conforms to the terms of the regulation [21 U.S.C. 346a(a)(1)]. Questions dealing with safety and production needs must be presented to and determined by the Secretary. In a judicial proceeding to enforce the regulation, it is only necessary for the Government to prove a violation of the regulation, *not danger to health*. Otherwise this law could not be effectively enforced.

"*Flemming v. Florida Citrus Exchange*, 1958, 358 U.S. 153 (1958), concerned the validity of administrative regulations regarding the use of certain colors on foods. On page 162, the Court said :

It is true that the ultimate purpose . . . of the adulteration provisions of the Act is to protect health, and no one makes the color substances by themselves an item of diet. But it certainly was competent for Congress, in the light of what were recognized problems to health in the use of such added colors, to adopt a rule of caution in treating this recognized and definable problem area. *This rule of caution is here one which relieves the Secretary from the burden of showing in each case that a food containing them raises a possibility of injury to health*, and requires that the color stuffs . . . not be added unless they could pass a higher standard. [Emphasis added.]

In the present case, the statutory design is clearly the same. The Government does not have the burden of showing that the DDT in this particular shipment of lettuce could be injurious to health. DDT may not be present in lettuce unless it meets a higher standard, namely, conformity to an administrative tolerance which has resulted from a broad and all-inclusive evaluation of DDT and other pesticide chemicals in foods.

"In a long line of cases, the courts have held foods may be adulterated regardless of whether they are injurious to health, unless the particular statutory definition of adulteration expressly requires the Government to prove the possibility of injury to health. *A. O. Anderson & Co. v. United States*, 9 Cir., 1922, 284 Fed. 542, 544; *United States v. Lexington Mill & Elevator Co.*, 1914, 232 U.S. 399, 410; *United States v. 716 Cases . . . Del Comida Brand Tomatoes*, 10 Cir., 1950, 179 F. 2d 174, 176; *United States v. 449 Cases . . . Tomato Paste*, 2 Cir., 1954, 212 F. 2d 567, 570-572; and *United States v. Lazere*, D.C. N.D. Iowa, 1944, 56 F. Supp. 730, 732.

"The adulteration provision upon which this case was based says nothing of injury to health [21 U.S.C. 342(a)(2)(B)]. Compare with other food adulteration provisions which speak of 'injurious to health' [21 U.S.C. 342(a)(1); the second clause in 21 U.S.C. 342(a)(4); and 21 U.S.C. 342(a)(6)].

"3. The exemption Proviso

"Defendant was charged with causing adulterated lettuce to be introduced and delivered for introduction into interstate commerce, in violation of 21 U.S.C. 331(a). It was therefore the Government's burden to show that the lettuce was adulterated at the threshold of interstate commerce, *Pasadena Research Laboratories, Inc. v. United States*, 9 Cir., 1948, 169 F. 2d 375, 380, cert. den. 335 U.S. 853, and this burden it fully met.

"The Government's sample of lettuce, which upon analysis revealed the presence of excessive quantities of DDT, was obtained by food and drug inspectors from a conveyor belt that was carrying the lettuce into a freight car for shipment to another State. Defendant contended, however, that the

Government's sampling was premature and that the defendant could be convicted only upon a showing that the lettuce contained excessive quantities of DDT after it reached the retail stores at destination. A more detailed statement of the facts is necessary to explain defendant's argument and the Court's ruling.

"Defendant is a corporation engaged in the business of farming fruits and vegetables in Maricopa County, Arizona. It produces and ships substantial quantities of these products in interstate commerce.⁷

"As the defendant receives orders for lettuce, it harvests enough lettuce to fill those orders. It then delivers that lettuce in cartons to a firm which, in a continuous operation, cools it and loads it promptly onto freight cars or trucks for out-of-state destinations. The delivery to the 'cooling' firm is therefore a delivery for introduction into interstate commerce.

"The shipment involved in this case consisted of 700 cartons of lettuce. It was delivered to a food broker in Wisconsin who was in the business of selling and distributing lettuce in smaller quantities to various wholesalers and distributors. Eventually, the lettuce would find its way into the retail market, a few cartons in one store, a few in another, etc. Defendant asserts that it is the practice of the retail markets to trim off some of the outer leaves of each head of lettuce before displaying it for sale and that such practice may bring the DDT content below the tolerance. Defendant contends that trimming of this type is a form of 'processing' which brings the lettuce within the exemption proviso in 21 U.S.C. 342(a)(2) and offers a complete defense unless (1) the Government obtains samples of the lettuce after it has been trimmed in the retail stores at destination, and (2) an analysis of *those* samples reveals the presence of more than 7 parts per million.

"If this were a good defense, it is obvious that the law would be completely unenforceable. The general philosophy of this law is to nip the violation in the bud as close to the source as possible. See *United States v. Walsh*, 1947, 331 U.S. 432, 436. Evidence of allegedly 'corrective' action which may be undertaken at destination has no bearing on the issue of whether the product was adulterated when introduced or delivered for introduction into interstate commerce. *United States v. 52 Drums Maple Syrup*, 2 Cir., 1940, 110 F. 2d 914, 915.

"The Court is convinced, however, that the exemption proviso does not help the defendant.⁸ To see this proviso in proper perspective, it is well to bear in mind that it was enacted in 1958 as a part of the *Food Additives Amendment* [21 U.S.C. 342(a)(2) and 348]. When Congress enacted the *Pesticide Chemicals Amendment* in 1954, it did not expressly include the exemption proviso but the legislative intent was clear from Senate Report No. 1635⁹ which accompanied that amendment prior to enactment. In part, that Report stated:¹⁰

It (the bill) would also include those foods which have been subjected to certain customary postharvest treatment prior to marketing, such as the washing or coloring of fruits in their unpeeled natural form, *the stripping of the outer leaves of lettuce*, and the preparation of fresh green

⁷ In fairness to the defendant, the Court notes that there is no showing here of repeated violations in disregard of prior warnings. In fact, the record indicates that a sample of another shipment of lettuce made by the defendant at about the same time was well within the tolerance for DDT. [Plaintiff's Exhibit 18.] However, it is settled that anyone who does business within the reach of the Federal Food, Drug, and Cosmetic Act is under an absolute obligation to comply with that law at all times. *United States v. Dotterweich*, 1943, 320 U.S. 277, 280-281, 284-285; *Smith v. California*, 1959, 361 U.S. 147, 152; *Triangle Candy Co. v. United States*, 9 Cir., 1944, 144 F. 2d 195, 199. Enforcement actions such as this one serve the purpose of exerting pressure upon the defendant and others similarly situated to reappraise their procedures and adopt precautions that will prevent recurrence of the violation.

⁸ This proviso in 21 U.S.C. 342(a)(2) reads: "Provided, That where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under section 346a of this title and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed food shall, notwithstanding the provisions of sections 346 and 348 of this title, not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of such residue in the processed food when ready to eat is not greater than the tolerance prescribed for the raw agricultural commodity . . ."

⁹ 1954 U.S. Code Congressional and Administrative News, 2626.

¹⁰ *Id.* at page 2631.

salads . . . Food processed by operations such as cooking, freezing, dehydration, or milling would remain subject to section 406 [21 U.S.C. 346] rather than being regulated by this bill. [Now 21 U.S.C. 346a.] [Emphasis added.]

While Congress in enacting this Amendment in 1954 did not include a statutory exemption proviso for processed foods, it clearly intended to exclude processed foods from the scope of that Amendment.¹¹ From the emphasized language it is plain Congress contemplated that the stripping of the outer leaves of lettuce *was not a processing* such as would make the lettuce a *processed food* and take it outside the bounds of the statute.

"Nor was this Congressional design altered by the Food Additives Amendment in 1958. There, Congress tackled the problems of food additives *in processed foods* in depth. It drew a sharp line between the Food Additives Amendment and the Pesticide Chemicals Amendment. Thus in the definition of 'food additive' it excluded pesticide chemicals in or on raw agricultural commodities.¹² The Congressional intent to leave the Pesticide Chemicals Amendment undisturbed is confirmed by the legislative history which also explains the purpose of the exemption proviso.¹³

"The exemption proviso was written to deal with the special problem of processed foods made out of raw agricultural commodities that contain pesticide chemicals. Processed foods are subject to the requirements of Sections 346 and 348. Thus, if they contain any pesticide chemical residue derived from a raw agricultural commodity, they violate those sections unless it is permitted by regulations issued under those sections. In a word, the exemption proviso makes such processed foods legitimate articles of commerce (if the conditions of exemption are met) without the need for special regulations under Section 346 or 348.

"The exemption proviso appears to be a reasonable legislative accommodation of an industry practice. Thus apples are processed into applesauce. If the apples bear or contain no more than 7 parts per million of DDT, they do not violate the law [21 CFR 120.101(e)(1)]. The applesauce, however, would also contain DDT and would violate Section 348 and possibly Section 346 unless a regulation under *those* sections authorized the presence of DDT in applesauce. By reason of the exemption proviso, a processed food like applesauce requires no regulation under Sections 346 or 348.

"The exemption proviso simply saves an extra step. Because of this blanket exemption, industry does not have to seek, and the Secretary does not have to issue, a regulation for each such processed food. Obviously, if the apples are legitimate articles of commerce, then the applesauce made from those apples should not be rendered illegal because of the presence of a component permitted in or on the apples. Either by statutory exemption or by regulation, that applesauce must be considered a legal product. Congress chose the statutory exemption technique, *but* (to carry on the same illustration) *only for applesauce made from apples that contained no more than 7 parts per million of DDT*. The exemption does not apply to the apples themselves. They are never permitted to have more than 7 parts per million of DDT and the applesauce made from them must also stay within that limit.

"According to the theory of the defense, the trimming of outer leaves of lettuce (which may or may not be done) is the type of processing contemplated by the exemption proviso. It is therefore immaterial how much DDT is on the lettuce when shipped. The proper test is how much remains on the lettuce after it is 'processed' in the retail market. In response to questioning by the Court, defense counsel conceded that if his view were accepted the lettuce would not be adulterated when shipped even if it contained 1000 parts of DDT per million.

¹¹ The Amendment deals only with raw agricultural commodities which by definition means food "in its raw or natural state" [21 U.S.C. 321(r)].

¹² 21 U.S.C. 321(s).

¹³ Senate Report No. 2422, 1958 U.S. Code Congressional and Administrative News, 5300 at page 5304:

Exempted from the scope of the legislation are (1) pesticide chemicals in or on raw agricultural commodities which are already covered by the pesticide chemicals amendment . . . ; (2) residues of pesticide chemicals unavoidably remaining on processed foods not in excess of tolerances prescribed by Food and Drug Administration for raw agricultural commodities . . .

"The Court seriously doubts that 'trimmed' lettuce is a 'processed' food. More significant, however, is the first condition of the exemption proviso¹⁴ which contemplates that the raw agricultural commodity from which the processed food is made must itself conform to the pesticide chemicals tolerance. Overriding all else, of course, is the fact that the proviso exempts only the processed food and not the raw agricultural commodity.

"It is an elementary rule 'that exceptions from a general policy which a law embodies should be strictly construed, that is, should be so interpreted as not to destroy the remedial processes intended to be accomplished by the enactment.' *Spokane & Inland Empire Railroad Co. v. United States*, 1916, 241 U.S. 344, 350; *McCauley v. Makah Indian Tribe*, 9 Cir., 1942, 128 F. 2d 867, 869-870. 'One claiming the benefit of an exemption from a statute of general application has the burden of bringing himself clearly within it.' *Walling v. Reid*, 8 Cir., 1943, 139 F. 2d 323, 327.

"The Court concludes as a matter of law that the defendant clearly does not come within the exemption proviso. In many cases, the courts have observed that the food and drug laws should be liberally construed more effectively to protect the public from adulterated and misbranded products. See *United States v. El-O-Pathic Pharmacy*, 9 Cir., 1951, 192 F. 2d 62, 75. Perhaps the best short answer to the 'exemption proviso' defense appears in *United States v. Dotterweich*, 1943, 320 U.S. 277. There too the defendant sought refuge under a strained interpretation of another exemption provision in the Federal Food, Drug, and Cosmetic Act. Rejecting the defense argument, the Supreme Court said at page 284.

It . . . reads an exception to an important provision safeguarding the public welfare with a liberality which more appropriately belongs to enforcement of the central purpose of the Act.

"4. Assessment of Costs

"After the jury returned a verdict of guilty, it became the duty of the Court to impose a penalty. Since the defendant is a corporation, the Court could impose a maximum fine of \$1,000 [21 U.S.C. 333(a)]. Under all the circumstances and after a presentence investigation, it was the judgment of the Court that defendant pay a fine of \$500.

"In addition the Court ordered that defendant pay the costs of prosecution insofar as they are taxable. By stipulation of counsel, those costs amount to \$2,000. Unquestionably, the total costs of investigation, analyses of samples, and trial preparation greatly exceed that sum.

"The Court's authority is clear. 28 U.S.C. 1918(b) reads: 'Whenever any conviction for any offense not capital is obtained in a district court, the court may order that the defendant pay the costs of prosecution.' It is settled that the taxing of costs in a criminal case is discretionary with the district court. *United States v. Lee*, 7 Cir., 1939, 107 F. 2d 522, 527-528, cert. den. 309 U.S. 659; *Alberty v. United States*, 9 Cir., 1937, 91 F. 2d 461, 464.

"Defendant was therefore ordered to pay the costs of prosecution."

28362. Romaine lettuce. (F.D.C. Nos. 47761, 47762. S. Nos. 52-274/5 T.)

QUANTITY: 63 crates, each containing approximately 36 heads, at Seattle, Wash.

SHIPPED: 6-11-62, from Oceano, Calif., by Pismo-Oceano Vegetable Exchange.

LABEL IN PART: (Crate) "Oceano Brand California Vegetables Packed and Shipped by Pismo-Oceano Vegetable Exchange, Oceano, California * * * 3 Doz. Romaine 27."

LIBELED: 6-19-62, W. Dist. Wash.

CHARGE: 402(a)(2)(B)—the article was a raw agricultural commodity and, when shipped, contained a pesticide chemical, namely, DDT, which was unsafe within the meaning of 408(a), since the quantity of such pesticide chemical on the article was not within the limits of the tolerance prescribed by regulations.

DISPOSITION: 7-10-62. Default—destruction.

¹⁴ See footnote 8, *supra*.

28363. Potatoes. (F.D.C. No. 47703. S. No. 82-385 T.)

QUANTITY: 550 50-lb. bags, each containing 5 10-lb. bags, at Seattle, Wash.

SHIPPED: 8-22-62, from Ontario, Oreg., by J. R. Simplot Co.

LABEL IN PART: (Bag) "Simplot's Blue Ribbon No. 1 Potatoes * * * J. R. Simplot Co. Caldwell, Idaho."

LIBELED: 9-13-62, W. Dist. Wash.

CHARGE: 402(a) (2) (B)—the article was a raw agricultural commodity and, when shipped, contained pesticide chemicals, namely, dieldrin and aldrin, which were unsafe within the meaning of 408(a) since the quantity of such pesticide chemicals on the article were not within the limitations of the tolerance prescribed by regulations.

DISPOSITION: 9-21-62. Default—destruction.

28364. Canned peas. (F.D.C. No. 47581. S. No. 17-740 T.)

QUANTITY: 392 cases, each containing 24 cans, at Bowling Green, Ky.

SHIPPED: 2-3-62, from Jacksonville, Tex., by HLH Parade Co.

LABEL IN PART: (Can) "Saxet Early June Peas Net Weight 15¼ Oz. Avd. * * * Made by HLH Parade Co. General Offices Dallas 1, Texas * * * Prepared from Cooked Dried Peas."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight and that it failed to meet the standard of fill of container for canned peas.

LIBELED: 5-8-62, W. Dist. Ky.

CHARGE: 403(e) (2)—the article failed to bear a label containing an accurate statement of the quantity of contents; 403(g) (2) the article purported to be and was represented as canned peas, a food for which a definition and standard of identity had been prescribed by regulations, and its label failed to bear the name of the optional pea ingredients present in such food since the standard provided that the label for canned peas should name the optional pea ingredients present in such food by the use of the words "dried early June peas" whereas, the label of the article bore the name "early June peas"; 403(h) (2)—the article purported to be and was represented as canned peas, a food for which a standard of fill of container had been prescribed by regulations and the article fell below such standard since the regulations required that a container with a lid attached by a double seam should be considered to be completely filled when it was filled to the level of $\frac{3}{16}$ inch vertical distance below the top of the double seam, whereas, the article was in containers with lid attached by double seam and it was not filled to the level of $\frac{3}{16}$ inch vertical distance below the top of the double seam, namely, the article was filled only to the level of $\frac{7}{16}$ inch vertical distance below the top of the double seam, and its label failed to bear the statement "Below Standard in Fill."

DISPOSITION: 9-6-62. Default—delivered to a charitable institution for use as food.

28365. Canned corn. (F.D.C. No. 47541. S. No. 5-687 T.)

QUANTITY: 58 cases, 24 1-lb. cans each, at Roanoke, Va.

SHIPPED: 18-26-61, from Monrovia, Md.

LABEL IN PART: (Can) "Just Off the Cob Brand Whole Kernel Golden Sweet Corn—Net Contents 1 pound—Wm. E. Silver Sales Co. Distributors, Coloma, Md."

LIBELED: 6-11-62, W. Dist. Va.

CHARGE: 402(a)(3)—while held for sale, the article contained insects and insect parts.

DISPOSITION: 8-10-62. Default—delivered to a public institution for use as animal feed.

28366. Pickles. (F.D.C. No. 47245. S. No. 61-370 T.)

QUANTITY: 148 cases, 12 jars each, at Milan, Ill.

SHIPPED: 1-26-62 and 2-13-62, from Bridgeport, Mich., by Crown Foods, Inc.

LABEL IN PART: (Jar) "Crown Fresh Pack Sweet Crunchy Butter Chips Contains * * * 1 Pt. 10 Fl. Oz. Crown Foods, Inc., Bridgeport, Michigan."

RESULTS OF INVESTIGATION: Examination showed that the article was short in volume.

LIBELED: 3-19-62, S. Dist. Ill.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 6-20-62. Default—delivered to charitable institutions.

28367. Pickles. (F.D.C. No. 46400. S. Nos. 24-201/2 R, 24-936 R.)

INFORMATION FILED: 5-21-62, Dist. Colo., against Western Food Products Co., Inc., Hutchinson, Kans., Western Canning Co., a partnership, LaJunta, Colo., Newton H. Benscheidt, president of the corporation and partner and George Benscheidt, vice president of the corporation and partner.

SHIPPED: Between 9-28-60 and 11-8-60, from Colorado to Kansas.

LABEL IN PART: (Case) "12 12-oz. JARS PICKLES," "1/3 DOZ. GALS.," and "4 1 GAL."

CHARGE: 402(a)(3)—when shipped, the sweet crosscut dill pickles contained insects, insect fragments, rodent hair fragments and other animal hair fragments, the sweet pickles contained rodent hair fragments and insect fragments, and sweet crosscut pickles contained maggots and insect fragments; and 402(a)(4)—all articles had been prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 7-20-62. Corporation and partnership—each fined \$600; Newton Benscheidt—fined \$750 and placed on probation for 2 years; George Benscheidt—placed on probation for 2 years.

28368. Sweet pickle relish. (F.R.C. No. 47568. S. No. 64-106 T.)

QUANTITY: 206 cases, 4 1-gal. jars each, at Atlanta, Ga.

SHIPPED: 1-25-62, from Faison, N.C., by Charles F. Cates & Son, Inc.

LABEL IN PART: (Jar) "Cates Premium Sweet Relish Net Cont. 1 Gallon Fl. Contains: * * * Packed by Chas. F. Cates & Son, Inc. Faison, N.C."

LIBELED: 4-30-62, N. Dist. Ga.

CHARGE: 402(a)(3)—contained wood splinters when shipped.

DISPOSITION: 6-15-62. Default—destruction.

28369. Pickled red plums. (F.D.C. No. 47495. S. No. 75-004 T.)

QUANTITY: 64 cases, 12 1-pint jars each, at San Francisco, Calif.

SHIPPED: 10-28-61, from Tokyo, Japan, by Pacific Trading Co., Ltd.

LABEL IN PART: (Green and brown colored labels) "Wel-Pac Akaume Zuke Cont. 1 Pint Product of Japan Ingredients: Plums * * * Distributed by Japan Food Corporation San Francisco-Los Angeles-Chicago-New York." The green labels also bore the additional statement "Certified Artificial Coloring."

RESULTS OF INVESTIGATION: Examination showed that the article contained noncertified colors not listed for coloring foods. The article was shipped in bulk and repacked and labeled as above by the dealer.

LIBELED: 5-18-62, N. Dist. Calif.

CHARGE: 402(c)—when shipped and while held for sale, the article contained a color additive, namely, noncertified coal-tar colors, which were unsafe within the meaning of 706(a), since their use or intended use were not in conformity with a regulation or exemption in effect pursuant to 706; and 403(k)—while held for sale, the article labeled with a brown label contained artificial coloring and its labeling failed to state that fact.

DISPOSITION: 6-26-62. Consent—claimed by Japan Food Corp., and released under bond for repacking and return shipment to the original foreign suppliers.

28370. Pickled cauliflower. (F.D.C. No. 47743. S. No. 62-264 T.)

QUANTITY: 20 bushels at Swansea, Mass., in possession of Star Pickling Corp.

SHIPPED: In April 1962, from Providence, R.I.

RESULTS OF INVESTIGATION: The article was shipped as fresh cauliflower by the dealer from the wholesale produce market and pickled thereafter. It was stored in an unlabeled wood storage tank.

LIBELED: 7-23-62, Dist. Mass.

CHARGE: 402(a)(3)—contained *Drosophila* flies, fly eggs, maggots, other insects and insect parts; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 9-10-62. Default—destruction.

TOMATOES

28371. Canned tomatoes. (F.D.C. No. 47436. S. Nos. 40-949 T, 40-991 T.)

QUANTITY: 385 cases, 6 1-lb. 12-oz. cans each, at Brooklyn, N.Y.

SHIPPED: 12-21-61 and 2-7-62, from Buena Park, Calif., by Uddo & Taormina Corp.

LABEL IN PART: (Can) "Progresso Italian Style Peeled Tomatoes * * * Solid Pack * * * Packed by Uddo & Taormina Corp. of California, Buena Park, California."

LIBELED: 4-12-62, E. Dist. N.Y.

CHARGE: 403(b)(1)—the quality of the article fell below the standard of quality for canned tomatoes since the article contained tomato peel per pound of canned tomatoes in the container which covered an area of more than 1 square inch and its label failed to bear a statement that it fell below such standard.

DISPOSITION: 6-21-62. Consent—claimed by Uddo & Taormina Corp., and released under bond for relabeling.

28372. Canned tomatoes. (F.D.C. No. 47151. S. No. 7-423 T.)

QUANTITY: 294 cases, each containing 24 cans, at Worcester, Mass.

SHIPPED: 1-4-62, from Cordova, Md., by Albert W. Sisk & Son.

LABEL IN PART: (Can) "Pine Cone Brand Peeled Tomatoes Net Contents 1 Lb. 11 Oz. Albert W. Sisk and Son Distributors * * * Main Office Preston, Maryland Sales Office Aberdeen, Md."

LIBELED: 2-19-62, Dist. Mass.

CHARGE: 402(a)(3)—contained *Drosophila* fly eggs and maggots when shipped.

DISPOSITION: 7-30-62. Default—destruction.

28373. Canned tomatoes. (F.D.C. No. 47150. S. No. 7-679 T.)

QUANTITY: 1,426 cases, each containing 24 cans, at New Bedford, Mass.

SHIPPED: 1-2-62, from Federalsburg, Md., by Albert W. Sisk & Son.

LABEL IN PART: (Can) "Our Vallue Brand Tomatoes Net Weight 1 Pound Distributed by Kitchen Products Inc. Chicago, Ill."

LIBELED: 2-19-62, Dist. Mass.

CHARGE: 402(a)(3)—contained *Drosophila* fly eggs and maggots when shipped.

DISPOSITION: 7-30-62. Default—destruction.

28374. Canned tomatoes. (F.D.C. No. 47633. S. No. 3-175 T.)

QUANTITY: 210 cases, each containing 6 cans, at Washington, D.C.

SHIPPED: 3-16-62, from Cordova, Md., by A. W. Sisk & Son.

LABEL IN PART: (Can) "Dover Brand Hand Packed Tomatoes * * * Net Contents 6 Lbs. 6 Ozs. Packed By Harrison & Jarboe Sherwood, Md."

LIBELED: 6-4-62, Dist. Columbia.

CHARGE: 402(a)(3)—contained *Drosophila* fly eggs and maggots when shipped.

DISPOSITION: 8-6-62. Default—destruction.

28375. Canned tomatoes. (F.D.C. No. 47754. S. No. 68-054 T.)

QUANTITY: 120 cases, 24 1-lb. cans each, at St. Louis, Mo.

SHIPPED: 4-19-62, from Water Valley, Ky., by Water Valley Canning Co.

LABEL IN PART: (Can) "Water Valley Brand Hand Packed Tomatoes * * * Packed for Water Valley Canning Co. Water Valley, Ky."

LIBELED: 6-14-62, E. Dist. Mo.

CHARGE: 403(h)(1)—the quality of the article, when shipped, fell below the standard of quality for canned tomatoes, since the article contained tomato peel per pound of canned tomatoes in the container which covered an area of more than 1 square inch and its label failed to bear, as required by regulations, a statement that it fell below such standard.

DISPOSITION: 8-2-62. Default—delivered to charitable institutions.

28376. Canned tomatoes. (F.D.C. No. 46800. S. No. 7-217 T.)

QUANTITY: 496 cases, each containing 6 cans, at Hartford, Conn.

SHIPPED: 1-24-61, from Easton, Md., by Harrison & Jarboe.

LABEL IN PART: (Can) "Dover Brand * * * Tomatoes Net Contents 6 Lbs. 6 Ozs. Packed by Harrison & Jarboe, Sherwood, Md."

LIBELED: 12-27-61, Dist. Conn.

CHARGE: 402(a)(3)—contained *Drosophila* fly eggs and maggots when shipped.

DISPOSITION: 8-9-62. Consent—destruction.

NUTS

28377. Unshelled almonds. (F.D.C. No. 46691. S. No. 49-182 R.)

INFORMATION FILED: 4-26-62, Dist. Colo., against Pacific Gamble Robinson Co., a corporation, t/a Pacific Fruit & Produce Co., Grand Junction, Colo., and John H. Gardner, manager.

ALLEGED VIOLATION: Between 10-7-60 and 11-8-60, the defendants caused a quantity of almonds, while held for sale after shipment in interstate commerce, to be held in a building accessible to rodents and to be exposed to contamination by rodents, which acts resulted in the article being adulterated.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 7-13-62. Corporation—\$500; Gardner—\$100.

28378. Unshelled brazil nuts. (F.D.C. No. 46854. S. No. 27-511 T.)

QUANTITY: 43 cases, 24 1-lb. bags each, at Chariton, Iowa.

SHIPPED: 10-28-61, from Chico, Calif.

LIBELED: 12-15-62, S. Dist. Iowa.

CHARGE: 402(a)(3)—contained rancid, moldy, and decomposed nuts while held for sale.

DISPOSITION: 1-25-62. Consent—claimed by Continental Nut Co., Chico, Calif. Segregated; 29 lbs. destroyed.

28379. Shelled brazil nuts. (F.D.C. No. 46499. S. No. 35-604 T.)

QUANTITY: 49 33-lb. ctns. at Minneapolis, Minn.

SHIPPED: 9-6-61, from New York, N.Y.

LIBELED: 10-20-61, Dist. Minn.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 12-8-61. Consent—claimed by J. F. Braun & Sons. Segregated; 101 lbs. destroyed.

28380. Unshelled brazil nuts and unshelled mixed nuts (2 seizure actions).

(F.D.C. Nos. 46809, 46816. S. Nos. 2-265 T, 2-267 T, 2-457 T, 54-720 T.)

QUANTITY: 443 cases, 24 1-lb. ctns. each of brazil nuts, and 146 cases, 24 1-lb. bags each of mixed nuts, at Atlanta and Forest Park, Ga.

SHIPPED: Between 11-8-61 and 11-21-61, from Chico, Calif.

LIBELED: 12-20-61 and 12-27-61, N. Dist. Ga.

CHARGE: 402(a)(3)—contained insects and rancid, decomposed, shriveled, and wormy nuts while held for sale.

DISPOSITION: 3-5-62. Consent—claimed by Continental Nut Co., Chico, Calif. Segregated; 244 lbs. of brazil nuts destroyed; mixed nuts (shelled in part), 40 lbs. of nut meats destroyed.

28381. Shelled peanuts. (F.D.C. No. 47163. S. Nos. 2-380 T, 2-470 T.)

QUANTITY: 1,120 124-lb. bags at Atlanta, Ga.

SHIPPED: 12-7-61, from Graceville, Fla., by Gold Kist Peanut Growers.

LABEL IN PART: (Bag) "Number One Shelled Runner Peanuts With Splits
Packed by Gold Kist Peanut Growers Division of Cotton Producer's Association,
Graceville, Florida."

LIBELED: 2-23-62, N. Dist. Ga.

CHARGE: 402(a)(3)—contained insects and insect larvae; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 4-4-62. Consent—claimed by Gold Kist Peanut Growers, Atlanta, Ga., and reconditioned by cleaning.

28382. Shelled peanuts. (F.D.C. No. 47394. S. No. 1-583 T.)

QUANTITY: 300 124-lb. bags at Atlanta, Ga.

SHIPPED: 12-7-61, from Graceville, Fla., by Gold Kist Peanut Growers.

LABEL IN PART: (Bag) "Number One Shelled Runner Peanuts with splits
* * * Packed by Gold Kist Peanut Growers Division of Cotton Producers
Association, Graceville, Florida."

LIBELED: 3-15-62, N. Dist. Ga.

CHARGE: 402(a)(3)—contained insects and insect larvae; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 4-26-62. Consent—claimed by Gold Kist Peanut Growers, Atlanta, Ga., and reconditioned by cleaning.

28383. Shelled peanuts. (F.D.C. No. 46472. S. No. 905 T.)

QUANTITY: 30 120-lb. bags at Greenville, S.C.

SHIPPED: 8-18-61, from Suffolk, Va.

LIBELED: 10-21-61, W. Dist. S.C.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 6-23-62. Default—destruction.

28384. Shelled peanuts. (F.D.C. No. 47511. S. No. 59-080 T.)

QUANTITY: 18 50-lb. bags, at Kalona, Iowa.

SHIPPED: In December 1960, from Thomas, Okla., by Stone Mill Foods.

LABEL IN PART: (Bag) "Geo. Lasley & Son, Eakly, Okla."

LIBELED: 5-24-62, S. Dist. Iowa.

CHARGE: 402(a)(3)—contained insects, insect larvae, insect fragments, insect excreta, and insect-damaged nuts when shipped.

DISPOSITION: 7-26-62. Default—destruction.

28385. Shelled Spanish peanuts. (F.D.C. No. 46662. S. No. 11-850 R.)

INFORMATION FILED: 12-19-61. M. Dist. Ga., against Dixie Peanut Co., Inc., Fitzgerald, Ga., and John C. Miller, vice president and general manager.

SHIPPED: 8-4-60, from Georgia to Illinois.

CHARGE: 402(a)(3)—contained insects and insect-damaged nuts; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Corporation—Guilty. Miller—nolo contendere.

DISPOSITION: 6-11-62. Corporation—\$750 fine. Miller—\$250 fine.

28386. Shelled pecans. (F.D.C. No. 47298. S. No. 19-374 T.)

QUANTITY: 1,350 30-lb. cases at El Paso, Tex.

SHIPPED: 1-25-62, from Las Cruces, N. Mex., by Stahmann Farms, Inc.

LABEL IN PART: (Case) "Large Pieces Fancy Del Cerro Shelled Pecans Stahmann Farms, Inc., Las Cruces, New Mexico."

LIBELED: 4-12-62, W. Dist. Tex.

CHARGE: 402(a)(3)—contained *E. coli* when shipped.

DISPOSITION: 5-1-62. Consent—claimed by the shipper and reprocessed to be brought into compliance with the law.

28387. Shelled pecans. (F.D.C. No. 47487. S. No. 25-719 T.)

QUANTITY: 40 cases, 30 lbs. each, at New Paris, Ind.

SHIPPED: 1-22-62, from Searcy, Ark., by Thompson Co., Inc.

LIBELED: 5-11-62, N. Dist. Ind.

CHARGE: 402(a)(3)—when shipped, contained rodent hairs and *E. coli*, an organism which indicates pollution of fecal origin and consequently contamination with filth.

DISPOSITION: 7-18-62. Default—delivered to a public institution for animal feed.

28388. Shelled pecans and shelled walnuts. (F.D.C. No. 47454. S. Nos. 31-662/3 T.)

QUANTITY: 108 4-oz. bags of pecans, and 72 4-oz. bags of walnuts, at Phoenix, Ariz.

SHIPPED: 3-29-62 and 4-12-62, from Anaheim, Calif., by Laura Scudder's, Inc.

LABEL IN PART: (Bag) "Laura Scudder's Diced Pecans [or "Diced Walnuts"] Packed by Laura Scudder's, Los Angeles, Oakland, Fresno, Salt Lake City, Phoenix."

RESULTS OF INVESTIGATION: The manufacturer's name and address and the statement of quantity of contents on the label were inconspicuous due to lack of contrast with the background, since the products were contained in clear cellophane bags on which these statements were printed in ink of a color similar to the product.

LIBELED: 4-23-62, Dist. Ariz.

CHARGE: 403(f)—when shipped, the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of contents were not prominently placed on the label with such conspicuousness (as compared with other words and statements on the label) as to render such information likely to be read by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 6-14-62. Default—delivered to a charitable institution.

28389. Shelled pecans. (F.D.C. No. 46682. S. No. 59-470 R.)

INFORMATION FILED: 1-30-62, N. Dist. Ill., against John B. Sanfilippo & Son, Inc., Chicago, Ill., and Jasper B. Sanfilippo, treasurer.

ALLEGED VIOLATION: Between 3-18-61 and 3-30-61, while shelled pecans were being held for sale after shipment in interstate commerce, the defendants caused the articles to be prepared and packed under insanitary conditions which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—contained *E. coli*; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Not guilty by individual; nolo contendere by corporation.

DISPOSITION: 10-11-62. After trial before the court without a jury, the individual was found not guilty; the corporation was fined \$750.

28390. Shelled walnuts. (F.D.C. No. 46962. S. No. 12-158 T.)

QUANTITY: 69 35-lb. cases at Chicago, Ill.

SHIPPED: 11-22-61, from Dundee, Oreg., by Compton Nut Co.

LABEL IN PART: (Case) "Quality Oregon Walnut-Filbert Meats * * * Compton Nut Co. P.O. Box 1 Dundee Oregon."

LIBELED: 2-5-62, N. Dist. Ill.

CHARGE: 402(a)(3)—contained *E. coli* when shipped.

DISPOSITION: 3-21-62. Consent—claimed by Compton Nut Co., and released under bond to be brought into compliance with the law.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE*

28391. Rexall Super Plenamins. (F.D.C. No. 44863. S. Nos. 43-373/5 R.)

QUANTITY: 137 cases, 12 8-oz. ctnd. btls. each of Super Plenamins Junior Liquid Vitamins; 27 cases, 144 36-tablet btls. each, 108 cases, 36 72-tablet btls. each, 19 cases, 24 288-tablet btls. each and 169 cases, 36 144-tablet btls. each, of Super Plenamins Multi Vitamins with Minerals; and 6 cases, 144 36-tablet btls. each, 7 cases, 144 72-tablet btls. each and 9 cases, 72 144-tablet btls. each, of Super Plenamins Junior, at Portland, Oreg.

SHIPPED: Between 10-13-59 and 8-24-60, from St. Louis, Mo., by Rexall Drug Laboratory.

LABEL IN PART: (Btl.) "For Children 1 to 12 years * * * Rexall Super Plenamins Junior Liquid Vitamins 10 Vitamins with Red Vitamin B₁₂ plus L-lysine * * * Rexall Drug Company"; (ctn.) "Rexall Super Plenamins Junior * * * Provide generous amounts of all the vitamins children are known to need for healthy growth (contains L-lysine, a growth-aid cereal diets lack.) * * * Rexall Drug Company"; (btl. and ctn.) "Rexall Super Plenamins Multi Vitamins with Minerals 12 Vitamins and 12 Minerals with B₁₂, Iron plus Liver Concentrate * * * Rexall Drug Company" and "Rexall Super Plenamins Junior 11 Vitamins with B₁₂ plus Iron and Liver Rexall Drug Company."

ACCOMPANYING LABELING: Leaflets entitled "Who Wouldn't Pay A Nickel A Day?," "Free 18 Day Supply Super Plenamins," and "Know Who Makes the Vitamins you BUY?" used in promoting sales of "Super Plenamins Multi Vitamins with Minerals."

LIBELED: 8-25-60, Dist. Oreg.; amended libel 1-26-61.

CHARGE: (Super Plenamins Junior Liquid and Super Plenamins Junior Tablets) 403(j)—when shipped and while held for sale, the articles purported to be and were represented as foods for special dietary uses by reason of their vitamin and mineral content and their labels failed to bear, as required by regulations, the statement "The need for panthenol in human nutrition has not been

*See also Nos. 28302, 28344.

established"; and (Super Plenamins Multi Vitamins with Minerals) 403(a)—the labeling accompanying the article contained representations that the article contained the food equivalents of 5 quarts of fresh milk, 10 to 20 fresh eggs, 16 potatoes, 10 pork chops, 1½ ounces of fresh liver, 1 orange, 1 pound of lima beans, 2 heads of lettuce, 2 cups of fresh green peas, and other foods, which representations were false and misleading since such foods to which the article was compared contained numerous nutritional factors not present in the article; 403(j)—the article purported to be and was represented as a food for special dietary use by reason of its vitamin and mineral content and its label failed to bear, as required by regulations, the statement "The need for nickel, zinc, molybdenum, manganese, cobalt, and panthenol in human nutrition has not been established."

The articles were alleged also to be misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 6884.

DISPOSITION: 6-8-61. The Rexall Drug & Chemical Co., claimant, having consented to the entry of a decree which declared the articles to be misbranded under 403(j) as alleged in the libel, and the court having found the articles to be misbranded under 403(j) without an adjudication of the other charges of misbranding, judgment of condemnation was entered and the articles were released under bond for relabeling.

28392. Calorie Control food concentrate. (F.D.C. No. 46071. S. No. 47-935 R.)

QUANTITY: 256 cases, containing 12 ctns. of 4 packets each; 68 cases, 120 packets each; 16 cases, containing 36 ctns. of 4 packets each; 1 case containing 10 ctns. of 4 packets each; 250 ctns., 40 packets each; 28 ctns., 20 packets each; 402 ctns., 4 packets each; and 251 packets, at Detroit, Mich.

SHIPPED: 9-22-61 and 11-21-61, from Evanston, Ill., by Corel Distributors.

LABEL IN PART: (Ctn.) "The J. L. Hudson Company deluxe pre-measured Calorie Control food concentrate Four packets provide vitamins, protein, minerals, and 900 calories for dietary weight control 8 ozs. Net Wt. * * * 5 appetizing delicious flavors—Chocolate, Coffee, Butterscotch, Plain, and Root Beer * * * Ingredients:" and (packet) "deluxe pre-measured Calorie Control food concentrate * * * Each Packet—Net Wt. 2 Ozs. * * * Each four packets of Chocolate flavor contain 70 gm (30.8%) of protein. Each four packets of Butterscotch, Coffee, Plain, and Root Beer flavors contain 75 gm. (31.99%) of protein. The J. L. Hudson Company, Detroit, Michigan, Distributors."

ACCOMPANYING LABELING: Leaflets reading in part "deluxe pre-measured Calorie Control food concentrate."

LIBELED: 7-14-61, E. Dist. Mich.

CHARGE: 403(a)—when shipped, the accompanying labeling of the article contained false and misleading representations that 95 percent of the body is made of protein; that the article supplied all the necessary elements of good nutrition; that each packet was the equivalent in nutrition of a full meal; and that the article was a food concentrate.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 6887.

DISPOSITION: 10-24-61. Consent—claimed by J. L. Hudson Co., and released under bond for removal of the leaflets from the cartons.

28393. Coffee reducing diet. (F.D.C. No. 45748. S. No. 67-335 R.)

QUANTITY: 26 cases, 12 individually ctnd. 7½-oz. jars each, and 57 individual jars, at Dallas, Tex.

SHIPPED: 2-15-61 and 3-20-61, from Chicago, Ill., by Fleetwood Co.

LABEL IN PART: (Jar) "Net Weight 7½ oz. * * * Larson's C.R.D. A Bulking Dietary Food Supplement For Use With Coffee Reducing Diet Each Ounce (4 Heaping Teaspoons) Contains: * * * Gelatin-Sucrose-Saccharin 110 Calories 13 Grams Protein—14 Grams Sucrose Distributed by Fleetwood Company—Chicago—Toronto."

ACCOMPANYING LABELING: Leaflet entitled "The Coffee Reducing Diet."

LIBELED: 5-9-61, N. Dist. Tex.

CHARGE: 403(a)—when shipped, the designation "Coffee Reducing Diet" and the vignette of 2 cups of coffee contained false and misleading representations that the article contained coffee; 403(j)—the article purported to be and was represented as a food for special dietary use, and its label failed to bear such information concerning its protein, fat, and available carbohydrate content as prescribed by regulations since its label failed to bear a statement of the percent by weight of protein, fat and available carbohydrates in such food; and since the article contained saccharin, a statement "Contains —— Saccharin a nonnutritive, artificial sweetener which should be used only by persons who restrict their intake of ordinary sweets," the blank to be filled in with the percent by weight of saccharin in such food.

The libel alleged also that the article was misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 6888.

DISPOSITION: On 6-9-61, Fleetwood Co., claimant, filed an answer denying that the article was misbranded. On 9-25-61, the claimant having consented, a decree was entered condemning the article and ordering its destruction. The article was subsequently destroyed.

28394. Special dietary foods. (F.D.C. No. 45946. S. Nos. 68-584 R, 68-586/7 R, 68-590/1 R.)

QUANTITY: 8 150-tablet btls. of Alfa-Kelp; 41 150-tablet btls. of Leme-C; 3 250-tablet btls. of Liver Tablets and B₁₂; 7 300-tablet btls. of Vitaphyll; and 10 300-tablet btls. of Wonderphyll, at Tulsa, Okla.

SHIPPED: 1-27-61, from Santa Rosa, Calif., by Randal Nutritional Laboratories.

LABEL IN PART: (Btl.) "Alfa-Kelp Tablets * * * Randal Nutritional Laboratories, Santa Rosa, Calif."; "Randal's Leme-C * * * Contains: Entire Lemon * * * Rose Hips, Vitamin C * * * Rutin * * * Kelp * * * Manufactured by Randal Nutritional Laboratories"; "Randal's Liver Tablets & B₁₂ * * * This product contains the finest of livers from healthy Reindeer * * * Manufactured by Randal Nutritional Laboratories * * * Contains: Whole * * * Liver * * * Heart * * * Kelp * * * Comfrey * * * Lemon * * * Cobalamin Concentrate * * * Duodenal Substance * * * Peppermint * * * Vitamin E"; "Randal's Vita-phyll With Liver and B-12 * * * A food supplement containing in large part, the highly concentrated essence from the fresh live fluids of plants and vegetables having highest nutritive alkalinizing, vitamin, mineral, and chlorophyll values * * * Formula L-H"; and "Wonderphyll * * * Manufactured by Randal Nutritional Laboratories * * * Contains valuable food substances

* * * Vitamins, Minerals, Enzymes and chlorophyll in their original complex structures."

LIBELED: 6-13-61, N. Dist. Okla.; amended libel 8-22-61.

CHARGE: 403(a)—when shipped, (Wonderphyll) the label contained false and misleading representations that the article contained 1 mg. of folic acid per 10 tablets, and that the article was of significant benefit for special dietary use by reason of the presence of enzymes, chlorophyll, the dehydrated juice solids of alfalfa, parsley, and watercress, liver, bone marrow, rice bran extract, papaya, okra, bile salts, and duodenum; (Alfa-Kelp) the label contained false and misleading representations that the article was of significant benefit for special dietary use by reason of the presence of dehydrated alfalfa juice, dehydrated alfalfa seed sprouts, chlorophyll, trace minerals, enzymes, and vitamins generally natural to alfalfa; (Leme-C) the name of the article "Leme-C" and the vignette of lemons on the label suggested and implied that the article was made entirely from lemons, which was false and misleading and the label also contained false and misleading representations that the article was of significant benefit for special dietary use by reason of the presence therein of the raw factors of lemon, bioflavonoids, and rutin; (Liver Tablets & B₁₂) the name "Liver Tablets & B₁₂" was false and misleading since the article contained ingredients in addition to liver and vitamin B₁₂, and the label also contained false and misleading representations that the article was of significant benefit for special dietary use by reason of the presence therein of dried reindeer liver, dried heart, comfrey, lemon, bioflavonoids, and dried duodenal substances; and (Vitaphyll) the label contained false and misleading representations that the article was of significant value for special dietary use by reason of the presence therein of dehydrated alfalfa, parsley, watercress, mustard greens, turnip greens, liver, papaya, okra, bone marrow, rose hips, damiana, lecithin, dandelion, sarsaparilla, burdock, valerian, yellow dock root, duodenum, potassium, magnesium, manganese, sodium, sulfur, trace minerals, and chlorophyll.

The libel alleged also that certain other products were misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 6945.

DISPOSITION: On 8-23-61, the case was transferred to the Southern District of California. On 1-25-62, a default decree of condemnation was entered and the article was ordered destroyed.

28395. Proten A powder, Proten V powder, and Geriatric liquid. (F.D.C. No. 45535. S. Nos. 39-621/3 R.)

QUANTITY: 71 1-lb. btls. of Proten A powder; 107 8-oz. btls. of Proten V powder; and 48 1-pt. btls. of Geriatric liquid, at St. Louis, Mo.

SHIPPED: Between 5-13-60 and 10-19-60, from Los Angeles, Calif., by William T. Thompson Co.

LABEL IN PART: (Btl.) "Thompson's Proten A High Protein Concentrate * * * Animal-Vegetable Protein Supplement * * * Manufactured by Wm. T. Thompson Co."; "Thompson's Proten V High All Vegetable Protein Concentrate * * * All Vegetable Protein Supplement * * * Manufactured by Wm. T. Thompson Co."; and "Thompson's Geriatric Liquid * * * Digestive Enzymes, Lipotropics and B-Complex Vitamins in Liquid Form Wm. T. Thompson Co. * * * Especially formulated for people over 40."

ACCOMPANYING LABELING: Counter display placards entitled "Higher Protein Potency Thompson's Proten," and "Don't Be Old at 40 Be Young at 60"; window banners entitled "Thompson's Proten A High Protein Supplement" and "Stop 'Slow Down' Over 40 Thompson's Geriatric Liquid"; leaflets entitled "Powder and Tablets Containing All the Essential Amino Acids Thompson's Protein"; window display sheets entitled "Thompson's Increased Vitality & Vigor For People Over 40"; pamphlets entitled "Stop 'Over 40' Slow Down Thompson's Geriatric Liquid & Tablets"; and newspaper mats reading in part "Men and Women 40 to 85 Stop That Over 40 Slow Down."

LIBELED: 3-31-61, E. Dist. Mo.

CHARGE: Proten V powder and Proten A powder, 403(a)—when shipped, the labels of the articles contained statements which represented and suggested that the articles were a high protein concentrate, and that the Proten V powder was four times higher in protein content than meat, which statements were misleading, since the articles would not supply a significant amount of protein under the recommended directions for special dietary use, and since the articles were compared with meat on a basis other than as such foods were consumed; and 403(j)—the articles purported to be and were represented as foods for special dietary uses by reason of their vitamin and mineral content, and their labels failed to bear, as required by regulations, a statement of the percent by weight of the available carbohydrates in such food.

Geriatric liquid, 403(a)—when shipped, the label statement "Niacinamide * * * MDR not established" was false and misleading; 403(a)—the labeling of the article contained false and misleading representations that the article contained nutritionally significant amounts of digestive enzymes, lipotropics, betaine monohydrate, liver concentrate, yeast extract concentrate, inositol, calcium glycerophosphate, and manganese glycerophosphate for special dietary use, and that such ingredients in the article were of nutritional significance for special dietary use; and that the dietary requirements of people of older ages were different from adults generally; 403(j)—the article purported to be and was represented as food for special dietary uses by reason of its vitamin content and its label failed to bear, as required by regulations, a statement of the proportion of the minimum daily requirement for niacinamide supplied by such food when consumed in a specified quantity during a period of one day; and 403(k)—the article contained chemical preservatives, namely, methylparaben and propylparaben, and its labeling failed to state that fact.

The libel alleged also that the articles were misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 6943.

DISPOSITION: 6-2-61. Consent—claimed by Wm. T. Thompson Co., and destroyed.

28396. Safflor capsules. (F.D.C. No. 46462. S. No. 68-824 R.)

QUANTITY: 57 100-capsule btls., at Milwaukee, Wis., in possession of Haug Drug Co.

SHIPPED: 5-25-61, from Detroit, Mich.

LABEL IN PART: (Btl.) "Haug's Safflor Capsules Haug's Safflower Oil Each Capsule Contains * * * As a Dietary Supplement, * * * Distributed by Haug Drug Company, Milwaukee 9, Wis."

ACCOMPANYING LABELING: Booklets entitled "Haug's Price List and Therapeutic Guide"; cards entitled "Safflor Capsules—For Reducing Serum Cholesterol File

Card No. 558"; leaflets entitled "Excerpts from a Symposium on fats in human nutrition" and "What's all the Talk About Serum Cholesterol Levels and Atherosclerosis?" and additional bottle labels.

RESULTS OF INVESTIGATION: The article was shipped in bulk and repacked and labeled by the dealer. The accompanying labeling was printed locally for the dealer and was used in promoting sales of the article.

LIBELED: 9-20-61, E. Dist. Wis.

CHARGE: 403(a)—while held for sale, the labeling of the article contained false and misleading representations that the article was of significant value for special dietary supplementation as a source of linoleic and oleic acids.

The libel alleged also that the article was misbranded under the provisions of the Act relating to drugs as reported in notices of judgment on drugs and devices, No. 6883.

DISPOSITION: 10-10-61. Default—destruction.

28397. Mineralized cookies. (F.D.C. No. 45781. S. Nos. 68-595/6 R.)

QUANTITY: 42 ctns., 12 pkgs. each, at Tulsa, Okla.

SHIPPED: Between 12-22-60 and 3-3-61, from Alhambra, Calif., by El Molino Mills.

LABEL IN PART: (Display case) "El Molino Kitchens * * * Best . . . from the Land!"; (pkg. sticker label) "El Molino Kitchens mineralized Cookies"; (cardboard in bottom of pkg.) "In each 3 cookies the added Minerals and Trace elements supply the following."

ACCOMPANYING LABELING: Leaflets entitled "The Story of . . . El Molino Kitchens Mineralized Cookies."

LIBELED: 5-8-61, N. Dist. Okla.; amended libel, 7-25-61, N. Dist. Calif.

CHARGE: 402(a)(2(C))—when shipped, the articles contained food additives, namely, iodine and boron from kelp, which were unsafe within the meaning of 409, since they and their use or intended use were not in conformity with a regulation or exemption in effect pursuant to 409; and 403(a)—the name of the articles "Mineralized cookies" and statements in the labeling contained false and misleading representations that the articles were of special benefit for special dietary use by reason of the addition of organic natural minerals, and that all such added minerals present in significant amounts for special dietary use, and the statement "Wheat Germ" prominently displayed on the label was misleading since the article was principally composed of numerous other ingredients.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 6882.

DISPOSITION: On 6-8-61, the case was transferred to the Northern District of California. On 11-3-61, a default decree of condemnation was entered and the articles destroyed.

28398. Red Rooster pills. (F.D.C. No. 46751. S. No. 42-883 T.)

QUANTITY: 26,400 tablets in a labeled bulk drum, 24,000 tablets in an unlabeled bulk drum, and 30 50-tablet btls. at Wyoming, Pa., in possession of Sanapac Co.

SHIPPED: 8-18-61, from Brooklyn, N.Y., by Manhattan Drug Co.

LABEL IN PART: (Drum) "S.F. 5073 Lot #4326 T Harmen Tablets Each tablet contains: * * * Ferrous Gluconate 100 mg. * * * Po. Ext. Passion Flower 100 mg. Po. Damiana 2 mg. Po. Nux Vomica 2 mg. * * * As a Hematinic and Bitter Tonic For Use in Iron Deficiency (Dietary) Anemias * * * Distributed by Manhattan Drug, Brooklyn 3, N.Y." and (btl.) "Sanapac's Red Rooster Pills 50 * * * Stimulant and Tonic A Dietary Supplement * * * Distributor The Sanapac Company, Wyoming, Penna. Formula * * * For Men and Women Only."

RESULTS OF INVESTIGATION: The bottles described above were repacked by the dealer from bulk stock as described above.

LIBELED: 12-1-61, M. Dist. Pa.

CHARGE: 402(a)(2)(C)—when shipped and while held for sale, the article contained food additives, namely, passion flower extract, damiana, and nux vomica, which were unsafe within the meaning of 409, since they and their use or intended use were not in conformity with a regulation or exemption in effect pursuant to 409.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 6953.

DISPOSITION: 1-9-62. Default—destruction.

28399. Controcal. (F.D.C. No. 45721. S. No. 19-840 R.)

QUANTITY: 6,158 cases, 24 5-oz. cans each, at Detroit, Mich., in possession of Milk Proteins, Inc.

SHIPPED: Between 11-11-60 and 2-3-61, from Barrington, Ill.

LABEL IN PART: (Can) "Controcal Controls Calories Complete Balanced Concentrated Food For Weight Control Formula #2—to be mixed with skim milk nutritious * * * and it tastes good * * * Controcal dietary for weight control * * * A complete balanced food—high grade milk protein, vitamins and minerals * * * controls calorie intake while supplying adequate nutrition and appetite satisfaction. Weight loss is achieved comfortably and pleasantly by the low calorie intake. * * * Milk Proteins Inc. Detroit 16, Michigan * * * Ingredients: * * * When the contents of this can (5-oz.) are added to 1 quart of skim milk, the following nutrients are supplied: Calories 900; Protein, gm. 72; Fat, gm. 21; Carbohydrate, gm. 112; Minerals gm. 14.5; Vitamin A, units 5000; * * * Vitamin C. mg. 100; Thiamin, mg. 2; Riboflavin, mg. 3; * * * Calcium, gm. 3.9; Phosphorus, gm. 2.9; * * * Minimum Daily Requirements (adults)."

ACCOMPANYING LABELING: Folders entitled "Controcal Promotion Kit."

RESULTS OF INVESTIGATION: Analysis showed that the article contained 69 percent of the declared amount of phosphorus and 72 percent of the declared amount of calcium.

The article was manufactured by Milk Proteins, Inc., and sent to Barrington, Ill., for packaging. The accompanying labeling was printed at Omaha, Nebr., on order of Milk Proteins, Inc.

LIBELED: 4-19-61, E. Dist. Mich.; amended libel 5-1-61.

CHARGE: 403(a)—while held for sale, the labeling of the article contained false and misleading representations that the article was a complete, balanced, concentrated 900-calorie food; that 72 grams of protein, 5,000 units of vitamin A, 100 milligrams of vitamin C, 2 milligrams of thiamin, 3 milligrams of riboflavin, 3.9 grams of calcium, and 2.9 grams of phosphorus were the minimum

daily adult requirement for those nutrients; that the article "controls calories" supplied adequate nutrition and satisfied the appetite; that the body's nutritive needs were fully met through the use of the article; that the "body tissues, muscles, blood, nails, skin, hair * * * are composed of protein"; that the article's "high protein" level maintained blood sugar level, preventing hunger and speeding up the slimming process; that the article was a low-sodium food; and that five ounces of the article added to one quart of whole milk provided 1,200 calories; and the can label contained statements relative to the nutrient content of the article which were misleading since they failed to reveal the material fact that not all of the nutrients in the declared amounts were supplied by the article prior to the addition of one quart of skim milk; and 403(j)—the article purported to be and was represented as a food for special dietary use, and its label failed to bear, as required by regulations, statements of the percent by weight of the artificial sweeteners in the article, that the artificial sweeteners were nonnutritive, and the statements "Contains _____ saccharin, a nonnutritive artificial sweetner which should be used only by persons who must restrict their intake of ordinary sweets," the blank to be filled in with the percent by weight of saccharin in such food.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 6925.

DISPOSITION: 2-20-62 and 2-26-62. Default—delivered to a charitable institution.

28400. Vitamin Cheweez tablets. (F.D.C. No. 44735. S. No. 36-651 R.)

QUANTITY: 20,000 tablets in bulk, 156 unlabeled 100-tablet btls. and 38 labeled 100-tablet btls., at Philadelphia, Pa.

SHIPPED: 3-22-60, from Long Island City, N.Y.

LABEL IN PART: (Drum) "25 M Tablets Vitamin Cheweez Tablets Cherry Each tablet contains * * * Vitamin B-12 USP 3 mcg. * * *"; (btl.) "Children's Chewing Vitamin Tablets Cherry Flavored * * * Each tablet contains * * * Vitamin B-12 USP 3 mcg."

RESULTS OF INVESTIGATION: Analysis showed that the article contained approximately 74 percent of the declared amount of vitamin B₁₂. The article had been shipped in bulk and had, in part, been repacked and labeled by the dealer.

LIBELED: 7-21-60, E. Dist. Pa.

CHARGE: 402(b)(1)—while held for sale, the valuable constituent of the article, vitamin B₁₂, had been in part omitted or abstracted from the article; and 403(a)—the label statement "Vitamin B-12 USP 3 mcg." was false and misleading.

DISPOSITION: On 8-15-60, Nysco Laboratories, Inc., Long Island City, N.Y., claimed the article and filed an answer denying that the article was adulterated or misbranded. Thereafter the Government served interrogatories upon the claimant which were answered by the claimant on 2-7-61. On 9-14-61, the court granted the claimant's motion for a representative sample of the article. On 11-6-61, the Government filed a motion to compel further and more complete answers to the interrogatories; and on 3-13-62, such motion was granted. Subsequently the claimants filed further answers to the Government's interrogatories. On 9-19-62, the claimant having consented to a decree without admitting any of the issues of law or fact, judgment was entered providing for condemnation and destruction of the article.

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¹ (28393, 28400) Seizure contested.
² (28361) Prosecution contested. Contains memorandum decision of the court.
³ (28389) Prosecution contested.
⁴ (28312) Injunction issued.

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¹ (28393, 28400) Seizure contested.² (28361) Prosecution contested. Contains memorandum decision of the court.

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³ (28389) Prosecution contested.⁴ (28312) Injunction issued.

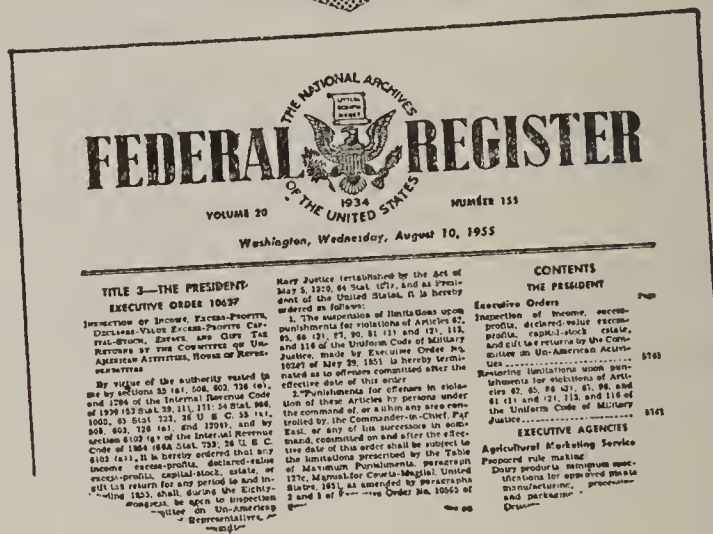
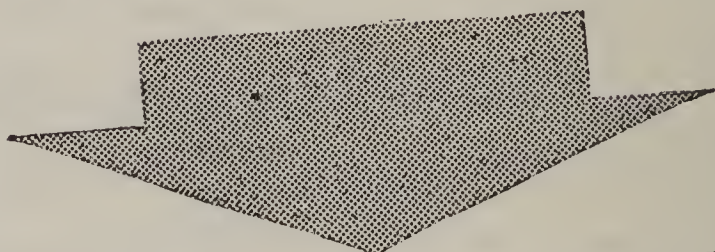
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pickled cauliflower-----	28370	Warehouse Market, Inc.:	
Stone Mill Foods:		flour-----	28305
shelled peanuts-----	28384	Water Valley Canning Co.:	
Storm (boat):		canned tomatoes-----	28375
frozen perch fillets-----	28352	Western Canning Co.:	
Supreme Dairy Products, Inc.:		pickles-----	28367
frozen eggs-----	28346	Western Food Products Co., Inc.:	
Thompson Co., Inc.:		pickles -----	28367
shelled pecans-----	28387	Whiz Fish Products Co.:	
Thompson, Wm. T., Co.:		canned shrimp-----	28356
Proten A powder, Proten V		Wolff, M., & Sons:	
powder, and Geriatric liquid_	28395	maraschino cherries-----	28357

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MAY 29 1963

U.S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

28401-28500

FOODS

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were alleged to be adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce, or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered after default, or consent, or in which, in one case, the proceedings were dismissed, (2) criminal proceedings which were terminated upon pleas of nolo contendere or guilty, and (3) an injunction proceeding terminated upon the entry of a permanent injunction by consent. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal and injunction proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D.C., May 8, 1963.

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SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F.N.J. NOS. 28401-28500

Adulteration, Section 402(a)(2)(B), the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408(a); Section 402(a)(2)(C), the article was or contained a food additive which was unsafe within the meaning of Section 409; Section 402(a)(3), the article consisted in whole or in part of a filthy, putrid, or decomposed substance, or it was otherwise unfit for food; Section 402(a)(4), the article had been prepared, packed, or held under insanitary conditions whereby it might have become contaminated with filth or might have been rendered injurious to health; Section 402(b)(1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b)(2), a substance had been substituted in whole or in part for the article; Section 402(b)(4), a substance had been added to the article to make it appear better or of greater value than it was; Section 402(c), the article contained a color additive which was unsafe within the meaning of Section 706(a); Section 408(a), a poisonous or deleterious pesticide chemical, or a pesticide chemical not generally recognized, among qualified experts, as safe for use, added to a raw agricultural commodity, was deemed to be unsafe because no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare; Section 409, a food additive was deemed to be unsafe because the food additive and its use or intended use failed to conform to the terms of an effective exemption or because there was not in effect, or the food additive and its use or intended use failed to be in conformity with, a regulation prescribing conditions for safe use; and Section 706(a), a color additive was deemed to be unsafe because there was not in effect a regulation listing such additive for a particular use, and such additive was not exempted from certification.

Misbranding, Section 403(a), the labeling of the article was false and misleading; Section 403(c), the article was an imitation of another food, and its label failed to bear in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated; Section 403(d), the container of the article was so made, formed, or filled as to be misleading; Section 403(e)(2), the article was in package form, and it failed to bear a label containing an accurate statement of the quantity of the contents in terms of weight, measure or numerical count; Section 403(f), a word, statement, or other information required by or under authority of the Act to appear on the label or labeling was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; Section 403(g)(1), the article purported to be or was represented as a food for which a definition and standard of identity had been prescribed by regulations and it failed to conform to such definition and standard; Section 403(i)(2), the article was not subject to the provisions of Section 403(g) and the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient; Section 403(j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information concerning its vitamin, mineral, and other dietary properties as the Secretary had determined to be, and by regulation prescribed as, necessary in order fully to inform purchasers as to its value for such uses; and Section

403(k), the article contained a chemical preservative and failed to bear labeling stating that fact.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

28401. Bakery products. (F.D.C. No. 47836. S. Nos. 23-123/4 T.)

INFORMATION FILED: 8-9-62, Dist. Wyo., against Frontier Baking Co., a corporation, Cheyenne, Wyo., and George N. Pagliasotti, president.

SHIPPED: 10-24-61 and 10-25-61, from Cheyenne, Wyo., to Denver, Colo.

LABEL IN PART: (Ctns.) "TOWN TALK ENRICHED BUNS TOWN TALK BAKERS • DENVER • COLORADO SPRINGS, COLO. CHEYENNE, WYO. 1½ OZ. PER BUN OR MORE."; (pkg.) "TOWN TALK HOLLAND ROLLS DIST. BY TOWN TALK BAKERIES • DENVER • COLO. SPGS. CHEYENNE, WYO. NET WT. 8 OZS."

CHARGE: 402(a)(3)—the buns contained insects and insect fragments; and 402(a)(4)—the buns and the rolls had been prepared under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 9-17-62. Each defendant fined \$100.

28402. Cookies. (F.D.C. No. 47897. S. Nos. 36-073 T, 47-003 T.)

INFORMATION FILED: 8-27-62, S. Dist. Miss., against Dixie Cookie Co., Inc., Jackson, Miss., and Albert C. Dildy, vice president.

SHIPPED: 3-15-62 and 3-20-62, from Jackson, Miss., to Mansfield, La., and Memphis, Tenn.

LABEL IN PART: (Pkg.) "SAMBO 5¢ DIXIE COOKIE CO. JACKSON, MISS. NET WEIGHT 1¾ OZS." and "GOOD 5¢ Cake * * * Net Wt. 1¼ Ozs. DIXIE COOKIE COMPANY JACKSON, MISSISSIPPI."

RESULTS OF INVESTIGATION: Examination showed that the cookies were short weight.

CHARGE: 403(e)(2)—when shipped, the article failed to bear labels containing an accurate statement of the quantity of contents.

PLEA: Nolo contendere.

DISPOSITION: 11-5-62. Guilty—corporation—\$250 fine; individual—\$250 fine which was suspended.

CORNMEAL

28403. Cornmeal and flour. (F.D.C. No. 46730. S. Nos. 30-917/8 R, 31-595 R, 82-022 R.)

INFORMATION FILED: 8-3-62, S. Dist. Miss., against P. P. Williams Co., a corporation, Vicksburg, Miss., and Edward H. Russell, president.

ALLEGED VIOLATIONS: Between 12-21-60 and 7-12-61, while a number of bags of self-rising flour and white cornmeal were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building that was accessible to rodents and caused the articles to be exposed to contamination by rodents, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—contained rodent hair, rodent excreta, and rodent urine; and 402(a)(4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 11-19-62. Each defendant fined \$250.

28404. Cornmeal, flour, peanuts, dried lima beans, and rice. (F.D.C. No. 47425. S. Nos. 59-720/4 T.)

QUANTITY: 67 25-lb. bags of cornmeal; 57 25-lb. bags of flour; 8 50-lb. bags of peanuts; 1 100-lb. bag of lima beans; and 8 100-lb. bags of rice; at Natchez, Miss., in possession of Herold & Miller, Inc.

SHIPPED: Between 11-29-60 and 3-8-62, from Abbeville and Shreveport, La., Chester, Ill., Suffolk, Va., and Dallas, Tex.

LIBELED: 4-7-62, S. Dist. Miss.

CHARGE: 402(a)(3)—contained (cornmeal) rodent urine and rodent hairs, (flour) rodent hairs, (peanuts) rodent hairs, rodent excreta, and bird feathers, and (lima beans and rice) rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-2-62. Default—delivered to a charitable institution for use as animal feed.

FLOUR

28405. Flour. (F.D.C. No. 47821. S. No. 47-070 T.)

QUANTITY: 418 25-lb. bags at Memphis, Tenn., in possession of Liberty Cash Grocers, Inc.

SHIPPED: 3-28-62, from Chester, Ill.

LIBELED: 8-7-62, W. Dist. Tenn.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 9-13-62. Default—destruction.

28406. Flour. (F.D.C. No. 47839. S. Nos. 2-611/13 T.)

INFORMATION FILED: 8-14-62, N. Dist. Ga., against Alterman Foods, Inc., Atlanta, Ga., and Max Alterman, vice president.

ALLEGED VIOLATIONS: Between 9-20-61 and 10-18-61, while quantities of flour were being held for sale after shipment in interstate commerce, the defendant caused the flour to be held in a building that was accessible to rodents and insects and caused the flour to be exposed to contamination by rodents and insects.

CHARGE: 402(a)(3)—contained rodent urine, insects, and insect larvae; and 402(a)(4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 9-25-62. Corporation—\$750 fine; individual—probation for 2 years.

28407. Flour. (F.D.C. No. 48034. S. Nos. 61-589 T, 61-591/2 T.)

QUANTITY: 88 25-lb. bags of all-purpose flour, 48 50-lb. bags of self-rising flour, and 100 25-lb. bags of self-rising flour, at Memphis, Tenn., in possession of Clayton Brown Co., Inc.

SHIPPED: Between 6-18-62 and 8-8-62, from St. Joseph, Mo.

LIBELED: 9-24-62, W. Dist. Tenn.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 10-24-62. Default—delivered to a public institution for destruction.

28408. Self-rising flour and monocalcium phosphate. (F.D.C. No. 47835. S. Nos. 363 T, 367 T, 400 T, 2-665 T, 2-668 T, 55-013 T.)

INFORMATION FILED: 8-15-62, M. Dist. N.C., against Laurinburg Milling Co., Laurinburg, N.C.

ALLEGED VIOLATION: The flour was shipped between 10-30-61 and 1-25-62, from Laurinburg, N.C., to Bennettsville, Sumter, and Lake City, S.C. While the monocalcium phosphate was being held for sale after shipment in interstate commerce, the defendant, between 9-11-61 and 1-24-62, caused the article to be held in a building accessible to rodents and insects and caused the article to be exposed to contamination by rodents and insects.

LABEL IN PART: (Bag) "LAMICO ROSE BLEACHED SELF-RISING FLOUR [or GOOSE GIRL SELF-RISING ENRICHED FLOUR, or SNOW LILY SELF-RISING FLOUR] MANUFACTURED BY LAURINBURG MILLING CO. LAURINBURG, N.C."

CHARGE: 402(a) (3)—the flour contained insects, insect parts, and rodent hair fragments; and 402(a) (4)—prepared under insanitary conditions.

402(a) (3)—the monocalcium phosphate contained rodent urine; 402(a) (4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 9-10-62. \$600 fine.

28409. Oat flour and quick cooking oats. (F.D.C. No. 47068. S. Nos. 21-946 R, 29-678 R, 29-680 R, 62-527 R.)

INFORMATION FILED: 5-3-62, S. Dist. Iowa, against General Mills, Inc., t/a General Mills Purity Oats Operation, Keokuk, Iowa, and Sidney A. Griffith, superintendent.

SHIPPED: Between 1-24-61 and 1-26-61, from Keokuk, Iowa, to Toledo, Ohio, Buffalo, N.Y., Minneapolis, Minn., and Somerset, Ky.

LABEL IN PART: (Ctn.) "Quick Purity Oats Net Wt. 1 lb. 2 Oz. General Mills, Inc., General Offices, Minneapolis 26, Minnesota."

CHARGE: 402(a) (3)—contained rodent hair fragments, insect fragments, and rodent excreta pellets.

PLEA: Nolo contendere.

DISPOSITION: 6-22-62. Corporation—\$800 fine, plus costs. Griffith—\$400 fine.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS*

28410. Wheat. (Inj. No. 435.)

COMPLAINT FOR INJUNCTION FILED: 9-10-62, Dist. Colo., against Robinson Grain Co., a partnership, Eads, Colo., Clyde D. McNeill, partner, and William Sauer, manager.

CHARGE: The complaint alleged that the defendants operated, at Eads, Colo., a grain storage facility consisting of a grain elevator of a vertical crib-type structure which had 9 ironclad wooden bins and an additional 12 butler steel bins to the east and south of the main elevator building, for the storage and distribution of wheat for human consumption; that the defendants had been

*See also No. 28404.

shipping in interstate commerce wheat which was adulterated within the meaning of 402(a) (3) and (4), by reason of contamination with insects and insect fragments, including tribolium, sawtoothed grain beetles, confused flour beetles, grain borers, flat grain beetles, granary weevils, and larvae and insect-damaged kernels of wheat, and by reason of being held under insanitary conditions at the defendants' grain storage facility at Eads, Colo.

It was alleged further that the insanitary conditions resulted from and consisted of the following: live and dead insects located in the bins, dead granary weevils on the driveway floors and along the wall interstices in the dump pit area, bird and insect trails on the rafters in the headhouse, and a dead mouse which had not been removed from a trap.

It was alleged further that the defendants were well aware that their activities were in violation of the Act; that several inspections of the grain storage facility at Eads, Colo., had been made by inspectors of the Food and Drug Administration; that in 1960 and in 1961 insect and rodent infestation was readily visible; that during an inspection on 2-16-62, it was noted that the rodent infestation was no longer a serious problem but the defendants had not controlled the insect infestation; that the defendants had been aware that wheat for human consumption was being stored under insanitary conditions; and that despite the warnings conveyed to the defendants by the inspections, the defendants had failed to correct the insanitary conditions at the grain storage facility and continued to ship in interstate commerce, wheat adulterated as specified above.

DISPOSITION: On 9-11-62, the defendants having consented, the court entered a decree of permanent injunction enjoining the defendants from directly or indirectly introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, wheat for human consumption and any similar article of food held at the defendants' grain storage facilities at Eads, Colo., unless and until: the grain storage facility was thoroughly cleaned and renovated and rendered suitable for use in connection with the storage of wheat for human consumption and any similar article of food, namely, unless and until all insect filth was removed from the grain storage facility; all insect, rodent, or other infestation in and about the grain storage facility was eliminated; the means of ingress and egress of the grain storage facility by insects or rodents were closed; and any similar insanitary conditions which might result in wheat for human consumption and any similar article of food being contaminated with filth while held at the grain storage facility were eliminated; and all of the wheat which was on hand at the grain storage facility at the time the grain storage facility was cleaned, renovated, and rendered suitable for the storage of food for human consumption, was destroyed, denatured for use as animal feed, or cleaned or otherwise brought into compliance with the law under the supervision of a duly authorized representative of the Food and Drug Administration, Department of Health, Education, and Welfare, and thus brought into compliance with the provisions of the Act.

28411. Wheat. (F.D.C. No. 47463. S. No. 34-794 T.)

QUANTITY: 110,000 lbs. at Minneapolis, Minn.

SHIPPED: 3-26-62, from Richey, Mont., by Farmers Union Trading Association.

LIBELED: 4-23-62, Dist. Minn.

CHARGE: 402(a)(2)(B)—the article was a raw agricultural commodity and, when shipped, contained a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408(a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat has been prescribed by regulations.

DISPOSITION: 5-7-62. Consent—claimed by Farmers Union Grain Terminal Association, St. Paul, Minn., and converted for use other than for human consumption.

28412. Wheat. (F.D.C. No. 47458. S. No. 34-027 T.)

QUANTITY: 114,000 lbs. at Minneapolis, Minn.

SHIPPED: 3-21-62, from Bowman, N. Dak., by Farmers Union Grain Terminal Association.

LIBELED: 4-19-62, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 5-7-62. Consent—claimed by Farmers Union Grain Terminal Association and denatured.

28413. Wheat. (F.D.C. No. 47479. S. No. 24-805 T.)

QUANTITY: 127,050 lbs. at Toledo, Ohio.

SHIPPED: 4-6-62, from Constantine, Mich., by Michigan Elevator Exchange.

LIBELED: 4-30-62, N. Dist. Ohio.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 5-11-62. Consent—claimed by Michigan Elevator Exchange, and brought into compliance with the law.

28414. Wheat. (F.D.C. No. 47297. S. No. 58-976 T.)

QUANTITY: 124,200 lbs. at Kansas City, Kans.

SHIPPED: Between 3-24-62 and 4-11-62, from North Kansas City, Mo.

LIBELED: 4-17-62, Dist. Kans.

CHARGE: 402(a)(3)—contained insect-damaged kernels when shipped.

DISPOSITION: 5-29-62. Consent—claimed by Atwood Equity Cooperative Exchange, Atwood, Kans. Segregated; 7,940 lbs. destroyed.

28415. Wheat. (F.D.C. No. 47539. S. No. 63-079 T.)

QUANTITY: 99,910 lbs. at Minneapolis, Minn.

SHIPPED: 5-19-62, from Miller, S. Dak., by Peavey-Occident Elevators.

LIBELED: 6-7-62, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 6-15-62. Consent—claimed by Peavey-Occident Elevators, Div., F. H. Peavey & Co., Minneapolis, Minn., and denatured.

28416. Wheat. (F.D.C. No. 47746. S. No. 70-555 T.)

QUANTITY: 87,000 lbs. at Minneapolis, Minn.

SHIPPED: 5-25-62, from Superior, Wis., by Hallet & Carey Co.

LIBELED: 6-13-62, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 6-19-62. Consent—claimed by St. Joe Cooperative Elevator Co., St. Joe, N. Dak., and denatured.

28417. Wheat. (F.D.C. No. 47755. S. No. 70-233 T.)

QUANTITY: 92,000 lbs. at Minneapolis, Minn.

SHIPPED: 5-21-62, from Geneseo, N. Dak., by Herman Grain & Seed.

LIBELED: 6-14-62, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 6-26-62. Consent—claimed by Herman Grain & Seed, and denatured.

28418. Wheat. (F.D.C. No. 47749. S. Nos. 63-607 T, 70-227 T.)

QUANTITY: 61,590 lbs. at Minneapolis, Minn.

SHIPPED: 5-23-62, from South Shore, S. Dak., by Farmers Cooperative Association.

LIBELED: 6-13-62, Dist. Minn.

CHARGE: 402(a)(2)(B)—the article was a raw agricultural commodity and, when shipped, contained a pesticide chemical, namely, a mercurial compound, which was unsafe within the meaning of 408(a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat had been prescribed by regulations.

DISPOSITION: 7-2-62. Consent—claimed by Farmers Cooperative Association. Segregated; 2,600 lbs. destroyed.

28419. Wheat. (F.D.C. No. 47781. S. No. 63-518 T.)

QUANTITY: 40,200 lbs. at Minneapolis, Minn.

SHIPPED: 6-13-62, from Dickinson, N. Dak., by Farmers Cooperative Union Elevator.

LIBELED: 6-26-62, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-5-62. Consent—claimed by Farmers Cooperative Union Elevator of Dickinson, and denatured.

28420. Wheat. (F.D.C. No. 47767. S. No. 63-615 T.)

QUANTITY: 116,600 lbs. at Minneapolis, Minn.

SHIPPED: 6-6-62, from Grand Forks, N. Dak., by North Dakota Mill & Elevator.

LIBELED: 6-20-62, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-5-62. Consent—claimed by Farmers Union Elevator of Knox, Knox, N. Dak., and denatured.

28421. Wheat. (F.D.C. No. 47770. S. Nos. 70-558 T, 70-663 T.)

QUANTITY: 115,160 lbs. at Minneapolis, Minn.

SHIPPED: 5-9-62, from Grenora, N. Dak., by Grenora Farmers Elevator Co.

LIBELED: 6-21-62, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-5-62. Consent—claimed by Grenora Farmers Elevator Co., and denatured.

28422. Wheat. (F.D.C. No. 47773. S. No. 63-135 T.)

QUANTITY: 91,800 lbs. at St. Paul, Minn.

SHIPPED: 6-5-62, from Belfield, N. Dak., by Farmers Union Elevator Co.

LIBELED: 6-21-62, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-5-62. Consent—claimed by Belfield Farmers Union Elevator Co., and denatured.

28423. Wheat. (F.D.C. No. 47777. S. No. 70-622 T.)

QUANTITY: 43,280 lbs. at Minneapolis, Minn.

SHIPPED: 6-14-62, from Reeder, N. Dak., by Reeder Equity Elevator.

LIBELED: 6-26-62, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-6-62. Consent—claimed by Reeder Equity Elevator and denatured.

28424. Wheat. (F.D.C. No. 47748. S. No. 28-444 T.)

QUANTITY: 119,400 lbs. at Wichita, Kans.

SHIPPED: 5-23-62, from Mohall, N. Dak., by Farmers Union Grain Terminal Association, Elevator Div.

LIBELED: 6-11-62, Dist. Kans.

CHARGE: 403(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-9-62. Consent—claimed by Farmers Union Grain Terminal Association, St. Paul, Minn., and reconditioned; 7,600 lbs. destroyed.

28425. Wheat. (F.D.C. No. 47775. S. Nos. 33-699 T, 63-437 T.)

QUANTITY: 120,220 lbs. at Superior, Wis.

SHIPPED: 5-15-62, from Des Lacs, N. Dak., by Becker Grain Co.

LIBELED: 6-22-62, W. Dist. Wis.

CHARGE: 402(a)(2)(B)—the article was a raw agricultural commodity and, when shipped, contained a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408(a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat has been prescribed by regulations.

DISPOSITION: 7-13-62. Consent—claimed by Robert D. Becker, and decharacterized for use as seed wheat.

28426. Wheat. (F.D.C. No. 47768. S. No. 63-319 T.)

QUANTITY: 90,580 lbs. at Superior, Wis.

SHIPPED: 5-24-62, from Glenfield, N. Dak., by Peavey-Occident Elevators.

LIBELED: 6-20-62, W. Dist. Wis.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-17-62. Consent—claimed by Peavey-Occident Elevators, and denatured.

28427. Wheat. (F.D.C. No. 47795. S. No. 70-384 T.)

QUANTITY: 120,000 lbs. at Minneapolis, Minn.

SHIPPED: 6-11-62, from Hazen, N. Dak., by Farmers Elevator of Hazen.

LIBELED: 7-5-62, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-23-62. Consent—claimed by Farmers Elevator of Hazen, and denatured.

28428. Wheat. (F.D.C. No. 47793. S. No. 35-469 T.)

QUANTITY: 48,630 lbs. at Minneapolis, Minn.

SHIPPED: 6-26-62, from Richardton, N. Dak., by Richardton Farmers Union Elevator Co.

LIBELED: 7-5-62, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-23-62. Consent—claimed by Richardton Farmers Union Elevator Co., and denatured.

28429. Wheat. (F.D.C. No. 47796. S. Nos. 70-203 T, 33-183 T.)

QUANTITY: 120,000 lbs., at Minneapolis, Minn.

SHIPPED: 6-13-62, from Minnewaukan, N. Dak., by Farmers Union Elevator Co.

LIBELED: 7-5-62, Dist. Minn.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, namely, a mercurial compound, which was unsafe within the meaning of 408(a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat had been prescribed by regulations.

DISPOSITION: 7-24-62. Consent—claimed by Farmers Union Elevator Company of Minnewaukan. Reconditioned; 5,980 lbs. destroyed.

28430. Wheat. (F.D.C. No. 47802. S. No. 70-237 T.)

QUANTITY: 40,000 lbs. at Minneapolis, Minn.

SHIPPED: 6-28-62, from Richardton, N. Dak., by Farmers Union Elevator Co.

LIBELED: 7-13-62, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 8-7-62. Consent—claimed by Richardton Farmers Union Elevator Co., Richardton, N. Dak., and denatured.

28431. Wheat. (F.D.C. No. 47987. S. No. 53-479 T.)

QUANTITY: 86,500 lbs., at Spokane, Wash.

SHIPPED: 7-31-62, from Carter, Mont., by Cargill, Inc.

LIBELED: 8-20-62, E. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 8-30-62. Consent—claimed by Cargill, Inc., and converted into animal feed.

28432. Wheat. (F.D.C. No. 47990. S. No. 79-275 T.)

QUANTITY: 74,880 lbs. at Minneapolis, Minn.

SHIPPED: 7-24-62, from Joliette, N. Dak., by Joliette Farmers Grain Co.

LIBELED: 8-24-62, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 8-31-62. Consent—claimed by Farmers Grain Co., Joliette, N. Dak., and denatured.

28433. Wheat. (F.D.C. No. 47991. S. Nos. 70-396 T, 79-805 T.)

QUANTITY: 230,880 lbs. at Minneapolis, Minn.

SHIPPED: 7-20-62, from New Town, N. Dak., by Farmers Grain Co.

LIBELED: 8-27-62, Dist. Minn.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 8-31-62. Consent—claimed by the shipper and denatured.

28434. Wheat. (F.D.C. No. 47988. S. No. 79-276 T.)

QUANTITY: 120,000 lbs. at Duluth, Minn.

SHIPPED: 7-17-62, from Scobey, Mont., by Farmers Elevator of Scobey.

LIBELED: 8-24-62, Dist. Minn.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 8-31-62. Consent—claimed by Farmers Elevator of Scobey and denatured.

28435. Wheat. (F.D.C. No. 47992. S. Nos. 78-854 T, 79-001 T.)

QUANTITY: 100,200 lbs. at St. Paul, Minn.

SHIPPED: 7-26-62, from Maddock, N. Dak., by Farmers Union Grain Terminal Association.

LIBELED: 8-24-62, Dist. Minn.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 9-5-62. Consent—claimed by Farmers Union Grain Terminal Association and denatured.

28436. Barley. (F.D.C. No. 47789. S. No. 63-139 T.)

QUANTITY: 72,940 lbs. at Minneapolis, Minn.

SHIPPED: 6-11-62, from Toronto, S. Dak., by Farmers Union Grain Terminal Association.

LIBELED: 7-3-62, Dist. Minn.

CHARGE: 402(a) (2) (B)—the article was a raw agricultural commodity and, when shipped, contained a pesticide chemical, namely, a mercurial compound, which was unsafe within the meaning of 408(a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on barley had been prescribed by regulations.

DISPOSITION: 7-13-62. Consent—claimed by Farmers Union Grain Terminal Association. Segregated; 11,050 lbs. destroyed.

28437. Cake mixes, pancake mixes, rigatoni, quick cooking oats, and candy.
(F.D.C. No. 47067. S. Nos. 82-450/2 R, 19-830 T, 19-833 T.)

INFORMATION FILED: 5-14-62, N. Dist. Tex., against A. W. Cullum & Co., Inc., Robert B. Cullum, president, and Ashley Wilson Cullum, III, warehouse superintendent.

ALLEGED VIOLATIONS: Between 1-19-61 and 5-9-62, while quantities of blueberry pancake mix, rigatoni, angel food cake mix, quick cooking oats, and chocolate candy bars were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building accessible to insects and to be exposed to contamination by insects, which acts resulted in the articles being adulterated.

CHARGE: 402(a) (3)—contained insect larvae and insects; and 402(a) (4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 6-29-62. Corporation—\$3,750 fine; Robert and Ashley Cullum—\$1,250 fine each.

DAIRY PRODUCTS

BUTTER

28438. Butter. (F.D.C. No. 45659. S. Nos. 1-102 R, 2-406 R, 2-408 R, 16-071 R.)

INFORMATION FILED: 8-4-61, W. Dist. Ky., against Sugar Creek Creamery, a Div. of National Dairy Products Corp., Louisville, Ky.

SHIPPED: Between 3-25-60 and 7-6-60, from Louisville, Ky., to Cincinnati, Ohio, and Miami, Fla.

LABEL IN PART: (Pkg.) "Net 1 Lb. Weight Country Roll Creamery Butter Pasteurized Distributors Wilson & Co., Chicago, Ill., U.S.A."; (pkg.) "Distributed By the Kroger Co., Cincinnati 2, Ohio Net Weight 1 Pound Country Club Butter Pound Print."

CHARGE: 402(a) (3)—when shipped, contained decomposed substance by reason of the use of decomposed cream in the manufacture of the article.

PLEA: Guilty.

DISPOSITION: 6-20-62. \$2,000 fine.

MISCELLANEOUS DAIRY PRODUCT

28439. Malted milk. (F.D.C. No. 47512. S. No. 33-990 T.)

QUANTITY: 57 cases, 12 jars each, at Minneapolis, Minn.

SHIPPED: 3-19-62, from Jefferson, Wis., by Carnation Co.

LABEL IN PART: (Jar) "Carnation Instant Chocolate Flavored Malted Milk * * * Carnation Company, Los Angeles, California Net Weight 15 Oz."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 5-28-62, Dist. Minn.

CHARGE: 403(e) (2)—when shipped, the article failed to bear an accurate statement of the quantity of contents.

DISPOSITION: 7-20-62. Consent—claimed by Carnation Co. and repacked.

EGGS

28440. Frozen eggs. (F.D.C. No. 45234. S. No. 14-847 R.)

INFORMATION FILED: 3-30-61, E. Dist. Ill., against Brown Produce Co., Inc., Farina, Ill., and Oliver E. Brown, president.

SHIPPED: 7-24-60, from Farina, Ill., to Columbus, Ohio.

LABEL IN PART: (Can) "Whole Eggs 30 lbs. Net Distributed by Ballas Egg Products Co., Inc., Zanesville, Ohio."

CHARGE: 402(a) (3)—contained decomposed eggs when shipped.

PLEA: Guilty.

DISPOSITION: 7-17-62. Corporation and individual—\$250 fine each, plus costs.

28441. Frozen eggs. (F.D.C. No. 47801. S. No. 67-865 T.)

QUANTITY: 65 30-lb. cans at Delight, Ark., in possession of Delight Certified Egg Farms, Inc.

SHIPPED: On unknown dates, from Dallas, Tex.

LABEL IN PART: (Can) "Whole Eggs * * * Packed by Delight Egg Farms, Inc., Hope, Arkansas."

RESULTS OF INVESTIGATION: The eggs were prepared by the dealer from shell eggs which had been shipped in interstate commerce as described above.

LIBELED: 7-13-62, W. Dist. Ark.

CHARGE: 402(a) (3)—contained decomposed eggs while held for sale.

DISPOSITION: 8-21-62. Consent—claimed by the dealer and delivered to a public institution for use as animal feed.

FEEDS AND GRAINS

28442. AFCO wafer meal. (F.D.C. No. 42406. S. Nos. 4-481/2 P, 4-485 P.)

INFORMATION FILED: 10-24-61, S. Dist. N.Y., against Ira Feifer, operator of American Feed Co., and Herbert Miskind, general manager, New York, N.Y.

SHIPPED: 6-4-58 and 6-5-58, from the Bronx, N.Y., to Delmar, Del.

RESULTS OF INVESTIGATION: Analysis showed that the article contained less than 10 percent of protein as declared on its label.

CHARGE: 403(a)—the label was false and misleading.

PLEA: Guilty.

DISPOSITION: 2-26-62. Feifer—\$2,000 fine; Miskind—\$1,500 fine.

28443. Canned cat food. (F.D.C. No. 46994. S. No. 47-143 T.)

QUANTITY: 50 cases, 48 cans each, at Hazelwood, Mo.

SHIPPED: 11-3-61, from Boston, Mass.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing progressive decomposition.

LIBELED: 1-26-62, E. Dist. Mo.

CHARGE: 402(a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 3-8-62. Default—destruction.

28444. Canned dog food. (F.D.C. No. 46478. S. Nos. 1-604 T, 1-610 T.)

QUANTITY: 1,797 cases, 48 cans each, at Atlanta, Ga.

SHIPPED: Between 3-8-61 and 4-28-61, from Atlanta, Ga., by Fabro, Inc., to Miami, Fla., and returned between 8-24-61 and 8-29-61.

LABEL IN PART: (Can) "Twin Pet Dog Food Good For Cats Too! Net Wt. 1 Pound Packed by Fabro, Inc. Athens, Ga."

LIBELED: 9-28-61, N. Dist. Ga.

CHARGE: 402(a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 2-5-62. Consent—claimed by Fabro, Inc., and released under bond for segregation and reprocessing to be brought into compliance with the law. Such operations were unsuccessful and on 3-21-62, with the consent of parties, an order was entered directing that the article be destroyed.

FISH AND SHELLFISH

28445. Ocean perch fillets. (F.D.C. No. 47588. S. No. 8-312 T.)

QUANTITY: 100 ctns., each containing 5 10-lb. pkgs. of individually wrapped fish fillets, at Gloucester, Mass.

SHIPPED: The article was from fish caught by the fishing vessel "Sea Queen" in the waters of the Atlantic Ocean outside the territorial limits of Massachusetts and prepared and packed on or about 5-2-62, at Gloucester, Mass.

LIBELED: 5-9-62, Dist. Mass.

CHARGE: 402(a) (3)—contained parasitic copepods when shipped.

DISPOSITION: 8-3-62. Consent—claimed by New England Fillet Co., Inc., Boston, Mass., and unfit portion segregated and destroyed.

28446. Crabmeat (2 seizure actions). (F.D.C. Nos. 47634, 47635. S. Nos. 191/3 T.)

QUANTITY: 35 1-lb. cans lump crabmeat, 15 1-lb. cans deluxe crabmeat, and 35 1-lb. cans lump crabmeat, at New York, N.Y.

SHIPPED: 6-4-62, from Punta Gorda, Fla., by Gulf Shore Seafood, Inc.

LABEL IN PART: "Gulf Shore Seafood, Inc. * * * All Lump Crabmeat [or "Deluxe Crabmeat"] Punta Gorda, Fla."

LIBELED: 6-8-62, S. Dist. N.Y.

CHARGE: 402(a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 8-28-62. Default—destruction.

FRUITS AND VEGETABLES

FRESH FRUIT

28447. Fresh blueberries (2 seizure actions). (F.D.C. Nos. 47637/8. S. Nos. 61-960 T, 62-611 T.)

QUANTITY: 11 crates, each containing 24 1-qt. boxes, and 12 crates, each containing 16 1-qt. boxes, at Boston, Mass.

SHIPPED: 8-22-62, from New Durham, N.H., by Arthur and Samuel Joy.

LIBELED: 8-22-62, Dist. Mass.

CHARGE: 402(a) (3)—contained maggots.

DISPOSITION: 9-7-62 and 9-24-62. Default—destruction.

28448. Fresh pineapples. (F.D.C. No. 47520. S. No. 45-780 T.)

QUANTITY: 145 12-unit crates at Springfield, Mo.

SHIPPED: 4-8-62, from Laredo, Tex.

LIBELED: On or about 6-4-62, W. Dist. Mo.

CHARGE: 402(a) (3)—while held for sale, the article consisted in whole or in part of a decomposed substance.

DISPOSITION: 6-5-62. Consent—destruction.

JAM, JELLY, AND PRESERVES

28449. Grape jam. (F.D.C. No. 46716. S. Nos. 9-799/800 R, 14-197 R, 16-888 R, 52-406 R, 53-126/7 R.)

INFORMATION FILED: 4-6-62, E. Dist. Wis., against Jewett & Sherman Co., a corporation, t/a Holsum Products, Milwaukee, Wis.

SHIPPED: Between 10-18-60 and 11-2-60, from Wisconsin to Minnesota, Illinois, Indiana, South Dakota, and Pennsylvania.

CHARGE: 402(a) (3)—contained insects, insect fragments, and maggots; and 402(a) (4)—prepared and packed under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 5-14-62. \$1,000 fine.

28450. Apple jelly. (F.D.C. No. 47507. S. No. 11-281 T.)

QUANTITY: 74 cases, 12 12-oz. jars each, at Youngstown, Ohio.

SHIPPED: 1-19-62 and 3-27-62, from Fredonia, N.Y., by Red Wing Co., Inc.

LABEL IN PART: (Jar) "Jellies Orchard Park Cinnamon Flavored Apple Certified Color Added Orchard Park Foods, Inc., Buffalo, N.Y.—Distributor."

RESULTS OF INVESTIGATION: Examination showed that the article contained a noncertified coal-tar color, namely, External D&C Red No. 15 (formerly FD&C Red No. 1) not listed for coloring foods.

LIBELED: 5-29-62, N. Dist. Ohio.

CHARGE: 402(c)—when shipped, the article contained a color additive, namely, a noncertified coal-tar color, which was unsafe within the meaning of section 706(a) since its use or intended use was not in conformity with a regulation or exemption in effect pursuant to section 706.

DISPOSITION: 8-13-62. Default—destruction.

28451. Pineapple preserves. (F.D.C. No. 46531. S. No. 15-250 T.)

QUANTITY: 2,167 cases, 12 2-lb. jars each, at Columbus, Ohio.

SHIPPED: 7-10-61, from Brooklyn, N.Y.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing progressive decomposition.

LIBELED: 11-13-61, S. Dist. Ohio.

CHARGE: 402(a) (3)—contained decomposed pineapple material while held for sale.

DISPOSITION: 1-12-62; amended decree 2-16-62. Consent—claimed by Fruitcrest Corp., Brooklyn, N.Y. Segregated; 751 jars destroyed.

VEGETABLES AND VEGETABLE PRODUCTS*

28452. Dried Great Northern beans. (F.D.C. No. 47805. S. No. 68-096 T.)

QUANTITY: 22 100-lb. bags at Springfield, Mo., in possession of Ozark Wholesale Supply Co., Inc.

SHIPPED: 10-20-61 and 1-3-62, from Denver, Colo.

LIBELED: On or about 7-20-62, W. Dist. Mo.

CHARGE: 402(a) (3)—contained rodent urine; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 9-18-62. Default—destruction.

28453. Dried lima beans and dried kidney beans. (F.D.C. No. 47426. S. Nos. 17-084 T, 17-094 T.)

QUANTITY: 66 100-lb. bags of lima beans and 366 100-lb. bags of kidney beans, at Austin, Ind., in possession of Morgan Packing Co.

SHIPPED: 12-29-61 and 2-8-62, from San Francisco, Calif.

LIBELED: 4-6-62, S. Dist. Ind.

CHARGE: 402(a) (4)—held under insanitary conditions.

*See also No. 28404.

DISPOSITION: 8-6-62. Consent—claimed by Morgan Packing Co. and reconditioned.

28454. Black-eyed peas. (F.D.C. No. 47823. S. Nos. 63-721/3 T, 63-800 T.)

QUANTITY: 56 bales of 24 1-lb. bags, 12 bales of 12 2-lb. bags, and 4 bales of 12 2-lb. bags, at Columbus, Ga.

SHIPPED: 3-20-62 and 5-8-62, from Memphis, Tenn., and Dallas, Tex.

LIBELED: 8-9-62, M. Dist. Ga.

CHARGE: 402(a)(3)—contained insects, insect larvae, and insect parts while held for sale.

DISPOSITION: 10-23-62. Default—destruction.

28455. Canned hominy. (F.D.C. No. 47787. S. No. 80-410 T.)

QUANTITY: 130 cases, each containing 24 15-oz. cans, at Sherman, Tex.

SHIPPED: 6-11-62, from Muskogee, Okla., by Griffin Manufacturing Co.

LABEL IN PART: (Can) "Griffin's Golden Hominy * * * Griffin Manufacturing Company Packers and Distributors Muskogee, Oklahoma."

LIBELED: 7-6-62, E. Dist. Tex.

CHARGE: 402(a)(3)—contained insect larvae and insect parts when shipped.

DISPOSITION: 10-24-62. Consent—delivered to a public institution for use as animal feed.

28456. Sauerkraut. (F.D.C. No. 45456A. S. No. 46-974 R.)

QUANTITY: 344 cases, 12 1-qt. jars each, at Toledo, Ohio.

SHIPPED: 2-1-61, from Bridgeport, Mich., by Crown Foods, Inc.

LABEL IN PART: (Jar) "Crown * * * Barrel Sauer Kraut 1 Qt. Fl."

LIBELED: 3-14-61, N. Dist. Ohio; amended libel 10-26-61.

CHARGE: 402(b)(1)—when shipped, the valuable constituent, sauerkraut, had been in part omitted or abstracted from the article; 402(b)(2)—a mixture of salt brine had been substituted in part for the article; 403(a)—the label statement "Fresh Bulk" was false and misleading as applied to a processed product not packed in bulk form; 403(i)(2)—the article was fabricated from two or more ingredients and its label failed to bear the common or usual name of each such ingredient, in that its label failed to declare the presence in such article of water and acetic acid; and 403(k)—the article contained sulfur dioxide, a chemical preservative, and its label failed to state the fact that sulfur dioxide is a chemical preservative.

DISPOSITION: 4-25-62. Default—delivered to a charitable institution.

28457. Fresh mustard greens. (F.D.C. No. 47815. S. No. 442 R.)

QUANTITY: 10 crates, each containing 2 dozen bunches, at El Paso, Tex.

SHIPPED: 7-20-62, from Pueblo, Colo., by Ciruhi Bros.

LIBELED: 7-31-62, W. Dist. Tex.

CHARGE: 402(a)(2)(B)—the article was a raw agricultural commodity and, when shipped, contained a pesticide chemical, namely, chlordane, which was unsafe within the meaning of 408(a) since no tolerance or exemption from the requirement of a tolerance for chlordane on mustard greens had been prescribed by regulations.

DISPOSITION: 8-9-62. Consent—destruction.

28458. Fresh turnip greens. (F.D.C. No. 47810. S. Nos. 22-755/6 T.)

QUANTITY: 50 baskets, each containing 36 bundles, at Little Rock, Ark.

SHIPPED: 7-19-62, from Pueblo, Colo., by E. W. Lignon Produce Co.

LIBELED: 7-25-62, E. Dist. Ark.

CHARGE: 402(a)(2)(B)—the article was a raw agricultural commodity and, when shipped, contained a pesticide chemical, namely, endrin, which was unsafe within the meaning of 408(a) since no tolerance or exemption from the requirement of a tolerance for endrin on turnips had been prescribed by regulations.

DISPOSITION: 7-27-62. Default—destruction.

28459. Stuffed peppers. (F.D.C. No. 45332. S. No. 24-208 R.)

QUANTITY: 36 cases, 12 1-qt. jars each, at Wichita, Kans.

SHIPPED: 11-8-60, from Chicago, Ill., by Manhattan Pickle Co.

LABEL IN PART: (Jar) "Farm Home Brand Mild Stuffed Peppers * * *
Packed by Manhattan Pickle Co., Chicago, Ill."

LIBELED: 1-11-61, Dist. Kans.

CHARGE: 402(a)(3)—when shipped, the article contained insects.

DISPOSITION: 3-29-61. Default—destruction.

MEAT PRODUCTS AND POULTRY

28460. Ham. (F.D.C. No. 45993. S. No. 2-432 P.)

INFORMATION FILED: 8-7-61, S. Dist. Fla., against Jefferies Market, Inc., and George A. Jefferies, Jr., president.

ALLEGED VIOLATION: Between 3-10-58 and 3-21-58, while ham was being held for sale after shipment in interstate commerce, the defendants caused the ham to be held in a building accessible to rodents, and insects, and to be exposed to contamination by rodents and insects, which acts resulted in the ham being adulterated.

CHARGE: 402(a)(3)—contained rodent excreta pellets; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 9-7-62. Corporation—\$1,000 fine; individual—\$1,000 fine.

28461. Vienna sausage. (F.D.C. No. 46758. S. No. 32-299 R.)

QUANTITY: 4,000 cases, 48 4-oz. cans each, at San Juan, Ponce, and Mayaguez, P.R.

SHIPPED: Between 2-3-61 and 2-8-61, from Opelousas, La., by Cleveland Provision Co.

LABEL IN PART: (Can) "Marca Carmella Vienna Sausage Cereal Added Packed In Water * * * Packed for Julio Garriga, Jr., San Juan, Puerto Rico."

RESULTS OF INVESTIGATION: Examination showed that the article contained added cereal and added water.

LIBELED: 12-6-61, Dist. P.R.

CHARGE: 402(b)(2)—when shipped, cereal and water had been substituted in whole or in part for meat.

DISPOSITION: 7-24-62. Consent—claimed by Packers Provision Co., Chicago, Ill., and released under bond for relabeling.

28462. Frozen chickens. (F.D.C. No. 47447. S. No. 41-735 T.)

QUANTITY: 1,720 chickens at Woodridge, N.Y.

SHIPPED: 2-17-62, from Toms River, N.J., by S & L Poultry Co., Inc.

RESULTS OF INVESTIGATION: Examination showed that about 12.5 parts per billion of diethylstilbestrol was contained in the chicken livers.

LIBELED: 4-13-62, S. Dist. N.Y.

CHARGE: 402(a)(2)(C)—when shipped, the article contained a food additive namely, diethylstilbestrol, which was unsafe within the meaning of 409 since it and its use or intended use were not in conformity with a regulation or exemption in effect pursuant to 409.

DISPOSITION: 6-28-62. Default—destruction.

NUTS AND NUT PRODUCTS*

28463. Cashew nuts. (F.D.C. No. 46605. S. Nos. 48-342 T.)

QUANTITY: 18 cases, 100 bags each, at San Francisco, Calif., in possession of Circus Foods, Inc.

SHIPPED: 3-24-61, from New York, N.Y.

LABEL IN PART: (Bags) "Circus Salted New Smokehouse Flavored (Artificially) Cashews * * * Net Wt. 60/100 Oz. Circus Foods, a division of USTCO Products Corporation, San Francisco, Calif."

RESULTS OF INVESTIGATION: The article was repacked and labeled by the dealer from bulk stock shipped as described above. Examination showed that the quantity of contents statement was inconspicuous due to being printed in very small type near the bottom of the bag against a poorly contrasting background.

LIBELED: 10-25-61, N. Dist. Calif.

CHARGE: 403(f)—while held for sale, the information required under 403(e)(2) to appear on the label, namely, the quantity of contents statement, was not prominently placed thereon with such conspicuousness (as compared with other words and statements on the label) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 7-17-62. Default—destruction.

28464. Cashew nuts. (F.D.C. No. 47259. S. No. 50-023 T.)

QUANTITY: 26 25-lb. cans at San Francisco, Calif.

SHIPPED: On unknown dates, from outside the United States.

LIBELED: 3-22-62, N. Dist. Calif.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 5-21-62. Default—destruction.

28465. Unshelled filberts and unshelled mixed nuts. (F.D.C. No. 45321. S. Nos. 24-368 R, 24-370 R.)

QUANTITY: 13 cases, 12 1-lb. bags each of filberts and 30 cases, 12 1-lb. bags each of mixed nuts, at Wichita, Kans.

SHIPPED: 10-25-60 and 12-7-60, from Dundee, Oreg., and Dallas, Tex.

*See also No. 28404.

LIBELED: 1-11-61, Dist. Kans.

CHARGE: 402(a)(3)—contained insect-infested, moldy, shriveled nuts and empty shells while held for sale.

DISPOSITION: 3-23-61. Default—delivered to a charitable institution, to be brought into compliance with the law, by segregation and destruction of the unfit nuts.

28466. Unshelled walnuts and unshelled almonds. (F.D.C. No. 46904. S. Nos. 27-174/5 T, 28-982/4 T.)

QUANTITY: 282 50-lb. bags of walnuts, and 50 50-lb. bags of almonds, at Wichita, Kans., in possession of Safeway Stores, Inc.

SHIPPED: Between 11-5-61 and 11-12-61, from Stockton and Los Angeles, Calif.

LIBELED: 2-9-62, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent urine and (almonds) insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-18-62. Consent—claimed by Safeway Stores, Inc. The walnuts were reconditioned; the almonds were destroyed.

28467. Shelled walnuts. (F.D.C. No. 47385. S. No. 51-585 T.)

QUANTITY: 102 35-lb. cases at Seattle, Wash.

SHIPPED: 11-16-61, from Dundee, Oreg., by Compton Nut Co.

LABEL IN PART: "Quality Oregon Walnut-Filbert Meats Compton Nut Company, P.O. Box 1, Dundee, Oregon."

LIBELED: 3-20-62, W. Dist. Wash.

CHARGE: 402(a)(3)—contained *E. coli* when shipped.

DISPOSITION: 5-29-62. Consent—claimed by Compton Nut Co., Dundee, Oreg. Segregated; 1/2 case destroyed.

28468. Shelled black walnuts. (F.D.C. No. 47260. S. No. 33-847 T.)

QUANTITY: 350 40-lb. ctns. at St. Paul, Minn.

SHIPPED: 2-1-62, from San Francisco, Calif., by Donig Co., Inc.

LABEL IN PART: "Donig Co. Inc. San Francisco, Calif. * * * Black Walnut Meats Graded Large."

LIBELED: 4-3-62, Dist. Minn.

CHARGE: 402(a)(3)—contained *E. coli*; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 5-9-62. Consent—claimed by shipper and reconditioned.

28469. Shelled mixed nuts. (F.D.C. No. 47404. S. No. 56-611 T.)

QUANTITY: 51 cases, 24 cans each, at Dallas, Tex.

SHIPPED: 2-5-62 and 2-15-62, from Memphis, Tenn., by Planters Peanuts.

LABEL IN PART: (Can) "Mr. Peanut * * * Fresh Roasted Planters Salted Mixed Nuts * * * Net Wt. 7 Oz. * * * Mfg. by Planters Nut & Chocolate Co., Suffolk, Va.—Wilkes Barre, Pa.—San Francisco, Cal."

RESULTS OF INVESTIGATION: Examination showed the article to be short weight.

LIBELED: On or about 3-26-62, N. Dist. Tex.

CHARGE: 403(c)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 5-11-62. Default—delivered to a public institution.

28470. Unshelled mixed nuts. (F.D.C. No. 46864. S. No. 45-626 T.)

QUANTITY: 14 15-lb. bags at East Peoria, Ill.

SHIPPED: 10-30-61, from Chico, Calif.

LIBELED: 12-27-61, S. Dist. Ill.

CHARGE: 402(a)(3)—while held for sale, contained insects, decomposed nuts, and empty shells.

DISPOSITION: 2-9-62. Consent—claimed by Continental Nut Co., Chico, Calif. Segregated; 27 lbs. destroyed.

28471. Unshelled mixed nuts. (F.D.C. No. 46547. S. No. 25-534 T.)

QUANTITY: 158 cases, each containing 24 1-lb. bags, at Lafayette, Ind.

SHIPPED: 10-26-61, from Modesto, Calif.

RESULTS OF INVESTIGATION: The article was composed of unshelled walnuts, almonds, brazils, filberts and pecans.

LIBELED: 11-27-61, N. Dist. Ind.

CHARGE: 402(a)(3)—contained dead insects, insect webbing and excreta, and insect-damaged almonds while held for sale.

DISPOSITION: 1-12-62. Consent—claimed by S & W Fine Foods, Inc., Modesto, Calif. The almonds were segregated and shelled; 2 lbs. of damaged almond nut-meats were destroyed.

28472. Shelled pecans. (F.D.C. No. 47503. S. No. 58-057 T.)

QUANTITY: 89 30-lb. cases at Dayton, Ohio.

SHIPPED: 4-19-62, from St. Louis, Mo., by Funsten Nut Co.

LABEL IN PART: (Case) "30 lbs. net wt. Funsten Small Select Pecan Halves, Funsten Nut Company, St. Louis, Mo."

LIBELED: 5-22-62, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained *E. coli*.

DISPOSITION: 6-20-62. Consent—claimed by Funsten Nut Co., and reconditioned to be brought into compliance with the law.

28473. Shelled pecans. (F.D.C. No. 47532. S. No. 61-193 T.)

QUANTITY: 25 240-lb. bbls. at Orrville, Ohio.

SHIPPED: 4-20-62, from St. Louis, Mo.

RESULTS OF INVESTIGATION: The article had been shipped in 30-lb. cartons to the dealer who had repacked the pecan meats into barrels. Examination showed that the article contained *E. coli*, an organism which indicated pollution of fecal origin.

LIBELED: 6-12-62, N. Dist. Ohio.

CHARGE: 402(a)(3)—while held for sale, the article consisted in part of a filthy substance because of the presence of *E. coli*.

DISPOSITION: 7-23-62. Consent—claimed by Funsten Nut Co., Div. of Pet Milk Co., St. Louis, Mo., and reconditioned to be brought into compliance with the law.

28474. Shelled peanuts. (F.D.C. No. 47713. S. Nos. 57-139/40 T.)

QUANTITY: 210 125-lb. bags and 195 100-lb. bags, at Dallas, Tex., in possession of Sunny Jim, Inc.

SHIPPED: 5-21-62 and 6-13-62, from Anadarko, Okla.

LIBELED: 7-19-62, N. Dist. Tex.

CHARGE: 402(a) (3)—contained rodent urine and rodent excreta pellets; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 8-23-62. Consent—claimed by Sunny Jim, Inc. Segregated; 350 lbs. destroyed.

28475. Pignolia nuts. (F.D.C. No. 47373. S. No. 41-379 T.)

QUANTITY: 32 cases, each containing 12 jars, at Bronx, N.Y.

SHIPPED: 12-21-61, from Newark, N.J., by Newark Packing Co., Inc.

LABEL IN PART: (Jar) "Coq D'Or Extra Deluxe Cocktail Imported Pignolias * * * Net Wt. 5¼ Ozs. * * * Packed in The U.S.A. Francis H. Leggett & Company Subsidiary of Seeman Brothers, Inc. Pique Division, Distributors, New York, N.Y."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 3-20-62, S. Dist. N.Y.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 7-13-62. Default—delivered to a charitable institution.

28476. Dried coconut. (F.D.C. No. 47415. S. No. 7-896 T.)

QUANTITY: 160 25-lb. bags, at Boston, Mass., in possession of Joseph Middleby, Jr., Inc.

SHIPPED: 12-8-61, from Manila, Philippine Islands.

LIBELED: 3-26-62, Dist. Mass.

CHARGE: 402(a) (3)—contained rodent urine; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 4-18-62. Consent—claimed by Joseph Middleby, Jr., Inc. Segregated; 47 bags destroyed.

28477. Frozen coconut. (F.D.C. No. 46935. S. No. 2-465 T.)

QUANTITY: 151 cases, 12 bags each, at Greenville, S.C.

SHIPPED: 12-4-61, from Atlanta, Ga., by Convenient Foods Co.

LABEL IN PART: (Bag) "Calypso Grated Frozen Fresh Coconut 9 Oz. Net Wt. * * * Convenient Foods Company, Atlanta, Ga."

LIBELED: On or about 1-26-62, W. Dist. S.C.

CHARGE: 402(a) (3)—contained a high total bacterial count and high coliform counts; and 402(a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 5-31-62. Default—destruction.

28478. Sliced coconut and chocolate coating. (F.D.C. No. 46399. S. Nos. 49-019/20 R.)

INFORMATION FILED: 12-12-61, Dist. Colo., against Bakers' Service Co., a corporation, Colorado Springs, Colo.

ALLEGED VIOLATION: Between 12-22-60 and 3-15-61, while quantities of coconut and chocolate coating were being held for sale after shipment in interstate commerce, the defendant caused such articles to be held in a building that was accessible to and infested with insects and rodents and to be exposed to contamination by insects and rodents, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—the coconut contained cockroach and other insect fragments and the chocolate coating contained rodent-gnawed chocolate; and 402(a)(4)—the articles were held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 2-2-62. \$1,500 fine.

28479. Pumpkin seeds, Fill-Mix, and pizza bits. (F.D.C. No. 47130. S. Nos. 2-544/6 T.)

QUANTITY: 75 cases, 24 jars each, of pumpkin seeds; 200 cases, 12 jars each, of Fill-Mix; and 50 cases, 12 jars each, of pizza bits, at Miami, Fla.

SHIPPED: 1-19-62, from Atlanta, Ga., by Filler Products, Inc.

LABEL IN PART: (Jar) "Filler's * * * Ready To Eat Pepitas Pumpkin Seeds * * * Ingredients: * * * Butylated Hydroxyanisole, Butylated Hydroxytoluene, and Methyl Silicone * * * Net Wt. 4 Oz. Mfg. by Filler Products, Inc. Atlanta, Ga."; "Filler's * * * Ready To Eat Fill-Mix Ingredients: Prepared Cereals, Pretzels, Nuts * * * Mfg. by Filler Products, Inc. Atlanta, Ga. * * * Net Wt. 4 Oz."; and "Filler's * * * Ready To Eat Pizza Bits Ingredients * * * Mfg. by Filler Products, Inc. Atlanta, Ga. * * * Net Weight 3¼ Oz."

RESULTS OF INVESTIGATION: Examination showed that the mandatory information was inconspicuous due to being printed in very small type, in metallic, gold-colored reflective ink and/or was on a highly reflective background.

LIBELED: 3-5-62, S. Dist. Fla.

CHARGE: 403(f)—when shipped, the information required under 403 (e)(1), (e)(2), (i)(2), and (k) to appear on the label, namely, the manufacturer's name and place of business, the quantity of contents statements, the common or usual name of each ingredient, and (pumpkin seeds) the declaration of chemical preservatives and (Fill-Mix and pizza bits) the declaration of artificial color, was not prominently placed on the label with such conspicuousness (as compared with other words and statements on the label) as to render such information likely to be read by the ordinary individual under customary conditions of purchase and use; and (pumpkin seeds) 403(k)—the article contained butylated hydroxyanisole and butylated hydroxytoluene, and its label failed to state that these ingredients were chemical preservatives.

DISPOSITION: 4-26-62. Consent—claimed by Filler Products, Inc., and relabeled.

SPICES, FLAVORS, AND SEASONING MATERIALS

28480. Avocado dressing. (F.D.C. No. 47752. S. No. 57-268 T.)

QUANTITY: 24 cases, 12 jars each, and 10 jars, at Oklahoma City, Okla.

SHIPPED: 5-20-62, from Fort Worth, Tex., by Stanfield Food Products.

LABEL IN PART: (Case) "12—12 Oz. Stanfield's Brand Stanfield Food Products, Fort Worth, Texas" and (jar) "Stanfield's Avocado Dressing * * * A Delicious Salad Dressing Net Contents 12 Ozs. Ingredients * * * Pure

Food Coloring, 1/10 of 1% Benzoate of Soda Stanfield's Golden Fin, Fort Worth, Texas."

RESULTS OF INVESTIGATION: Examination and investigation showed that the product was essentially a salad dressing containing an insignificant amount of avocado ingredient, in which the avocado flavor could not be detected, and that it contained artificial green color. The article failed to conform to the definition and standard of identity for salad dressing in that it contained artificial color and sodium benzoate, ingredients not permitted by such standard.

LIBELED: 6-13-62, W. Dist. Okla.

CHARGE: 402(b)(4)—when shipped, green color had been added to the article so as to make it appear better or of greater value than it was; 403(a)—the name "Avocado Dressing" was false and misleading as applied to a product containing an insignificant amount of avocado ingredient and in which the flavor of avocado could not be detected; and 403(g)(1)—the article failed to conform to the definition and standard of identity for salad dressing.

DISPOSITION: 7-11-62. Default—delivered to a charitable institution.

28481. Horseradish. (F.D.C. No. 47797. S. No. 11-914 T.)

QUANTITY: 99 cases, 24 jars each, at Youngstown, Ohio.

SHIPPED: 6-5-62, from Rochester, N.Y., by Pure Foods Co.

LABEL IN PART: (Jar) "Edgebrook Prepared Horseradish * * * Net Contents 4 Fl. Oz. Orchard Park Foods, Inc. Buffalo, N.Y. Distributor."

RESULTS OF INVESTIGATION: Examination showed that the article was short in volume.

LIBELED: On or about 7-20-62, N. Dist. Ohio.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 8-15-62. Default—destruction.

28482. Hyglo meat seasoning. (F.D.C. No. 47673. S. No. 7-983 T.)

QUANTITY: 1 drum, containing approximately 80 lbs., at New Britain, Conn.

SHIPPED: 3-14-62, from Long Island City, N.Y., by First Spice Mixing Co., Inc.

LABEL IN PART: (Drum) "First Spice Mixing Company * * * Hyglo Seasoning No. 555-2 Ingredients: Dextrose, Sodium Erythorbate, Sodium Citrate, Erythorbic Acid, Sodium Nicotinate, Citric Acid, Sodium Carbonate, Butylated Hydroxyanisole, Propyl Gallate, Propylene Glycol, not more than 2% Calcium Stearate."

RESULTS OF INVESTIGATION: Factory inspection of the manufacturer, First Spice Mixing Co., Inc., disclosed that niacin, rather than sodium nicotinate, and polyvinyl pyrrolidone were added to the article.

LIBELED: 6-27-62, Dist. Conn.

CHARGE: 402(a)(2)(C)—when shipped, the article contained food additives, namely, niacin and polyvinyl pyrrolidone, which were unsafe within the meaning of 409 since they, their uses or intended uses, were not in conformity with a regulation or exemption in effect pursuant to 409; and 403(k)—the article contained chemical preservatives, namely, sodium erythorbate, sodium citrate,

erythorbic acid, niacin, citric acid, butylated hydroxyanisole, and propyl gallate, and its label failed to state that fact.

DISPOSITION: 10-8-62. Default—destruction.

28483. Hyglo meat seasoning. (F.D.C. No. 47672. S. No. 63-546 T.)

QUANTITY: 3 25-lb. drums at St. Paul, Minn.

SHIPPED: 3-7-62, from Long Island City, N.Y., by First Spice Mixing Co., Inc.

LABEL IN PART: (Drum) "First Spice Mixing Company * * * Hyglo Seasoning No. 555-2 Ingredients: Dextrose, Sodium Erythorbate, Sodium Citrate, Erythorbic Acid, Sodium Nicotinate, Citric Acid, Sodium Carbonate, Butylated Hydroxyanisole, Propyl Gallate, Propylene Glycol, not more than 2% Calcium Stearate."

RESULTS OF INVESTIGATION: Factory inspection of the manufacturer, First Spice Mixing Co., Inc., disclosed that niacin, rather than sodium nicotinate, and polyvinyl pyrrolidone were added to the article.

LIBELED: 6-15-62, Dist. Minn.

CHARGE: 402(a)(2)(C)—when shipped, the article contained food additives, namely, niacin and polyvinyl pyrrolidone, which were unsafe within the meaning of 409, since they and their intended use were not in conformity with a regulation or exemption in effect pursuant to 409; and 403(k)—the article contained chemical preservatives, namely, sodium erythorbate, sodium citrate, erythorbic acid, niacin, citric acid, butylated hydroxyanisole, and propyl gallate, and its label failed to state that fact.

DISPOSITION: 7-30-62. Default—destruction.

28484. Hot sauce. (F.D.C. No. 47771. S. No. 37-198 T.)

QUANTITY: 84 cases, 24 btls. each, at Birmingham, Ala.

SHIPPED: 3-19-62, from New Iberia, La., by B. F. Trappey's Sons, Inc.

LABEL IN PART: (Btl.) "Bull Brand Louisiana Hot Sauce * * * Net Contents 6 Fl. Oz. B. F. Trappey's Sons, Inc. New Iberia, La."

RESULTS OF INVESTIGATION: Examination showed that the article was short in volume.

LIBELED: 6-20-62, N. Dist. Ala.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 7-26-62. Default—delivered to charitable institutions.

28485. Imitation lemon flavoring. (F.D.C. No. 46556. S. No. 6-483 T.)

QUANTITY: 85 cases, 12 7-oz. jars each, at Somerville, Mass.

SHIPPED: 8-30-61, from Columbus, Ind., by Union Starch & Refining Co.

LABEL IN PART: (Jar) "Pennant Vitamin C Enriched Instant Lemon Flavoring Equivalent to 37 Lemons * * * Ingredients: Pure Dehydrated Lemon Juice, Dextrose, Citric Acid, Calcium Phosphate, Lemon Oil From Rind, Ascorbic Acid (Vit. C) and U.S. Certified Food Color * * * Packed & Distributed by Union Starch and Refining Company, Columbus, Ind."

LIBELED: 10-5-61, Dist. Mass.

CHARGE: 403(a)—when shipped, the name "Instant Lemon," the label vignette depicting a whole lemon, and the label statement which represented that the article when dissolved in water makes lemon juice, or the equivalent thereof,

were false and misleading; and 403(c)—the article was an imitation of another food, namely, dehydrated lemon juice, and its label failed to bear the word "Imitation" immediately after the name of the food indicated.

DISPOSITION: 12-11-61. Consent—claimed by Union Starch & Refining Co., and relabeled.

28486. Poppyseed. (F.D.C. No. 47591. S. No. 13-484 T.)

QUANTITY: 266 50-kos. bags, at Chicago, Ill., in possession of Neiman Bros. Co., Inc.

SHIPPED: 8-1-61 and 10-21-61, from Warsaw, Poland.

LIBELED: 5-9-62, N. Dist. Ill.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 6-20-62. Default—destruction.

28487. Sandwich spread. (F.D.C. No. 47758. S. No. 16-441 T.)

QUANTITY: 99 cases, 12 1-pt. jars each, at Nashville, Tenn.

SHIPPED: Between 4-12-62 and 4-24-62, from Decatur, Ga., by Kraft Foods Co.

LABEL IN PART: (Jar) "Salad Bowl Sandwich Spread. Vegetable Oil, Pickle Relish, Sugar, Water, Vinegar, Pimentos, Egg Yolks, Salt, Cornstarch, Arrowroot, Spices. * * * Kraft Foods Div. National Dairy Products Corp. Chicago, Ill."

LIBELED: 6-18-62, M. Dist. Tenn.

CHARGE: 403(f)—when shipped, the manufacturer's name and address required on the label by 403(e)(1), being printed on a mottled background of light and dark green and white, were not prominently placed on the jars with such conspicuousness as to render them likely to be read under customary conditions by ordinary individuals; 403(i)(2)—the article was fabricated from two or more ingredients and failed to bear the name of the preservative used, namely, ethylenediaminetetraacetic acid; and 403(k)—the article contained a chemical preservative, ethylenediaminetetraacetic acid, but the label failed to state that fact.

DISPOSITION: 10-3-62. Default—delivered to charitable institutions.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

28488. Alfalfa tablets. (F.D.C. No. 46463. S. No. 81-971 R.)

QUANTITY: 1 drum, containing approximately 29,000 tablets, at Forest, Miss.

SHIPPED: 6-27-61, from North Kansas City, Mo., by Dayco Laboratories, Inc.

LABEL IN PART: (Drum) "Dayco Laboratories, Inc. * * * Alfalfa Tablets, Red."

LIBELED: 9-20-61, S. Dist. Miss.

CHARGE: 403(j)—when shipped, the article purported to be and was represented as a food for special dietary use and its label failed to bear, as required by regulations, a statement of the dietary properties upon which such use was based in whole or in part.

The libel alleged also that the article, while held for sale, was misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 7050.

DISPOSITION: 1-24-62. Default—destruction.

28489. Lecitabs (lecithin tablets). (F.D.C. No. 46968. S. No. 34-677 T.)

QUANTITY: 56 90-tablet btls. and 13 180-tablet btls. at Minneapolis, Minn.

SHIPPED: Between 6-23-61 and 10-4-61, from Chicago, Ill., by National Lecithin, Inc.

LABEL IN PART: (Btl.) "National Lecitabs Lecithin Tablets A Natural Food Product Highly concentrated extra rich, Soya Lecithin formula of 95% oil free Phosphatides. Ingredients: Soya Lecithin, in a base of non-fat, dry milk solids and soy protein. Natural flavoring added. Sole Distributors: National Lecithin, Inc., Chicago 26, Ill. * * * a dietary supplement of natural lipotropic factors. * * * a rich, natural source of Lecithin, Cephalin, Choline and Inositol Phosphatides * * * rich in both linoleic and linolenic acids."

LIBELED: 2-20-62, Dist. Minn.

CHARGE: 403(a)—when shipped, the label contained false and misleading representations that the article was of significant value for special dietary supplementation by reason of the presence therein of lipotropic factors, cephalin and linoleic and linolenic acids; and 403(j)—the article purported to be and was represented as a food for special dietary uses by reason of the presence of choline and inositol and its label failed to bear, as required by regulations, a statement of the quantity of choline and inositol in a specified quantity of such food, which is a quantity reasonably suitable for and practicable of consumption within a period of one day.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 7049.

DISPOSITION: 4-6-62. Default—destruction.

28490. Kiddy Kaps vitamins. (F.D.C. No. 47138. S. Nos. 9-680 T, 10-684 T.)

QUANTITY: 106 24-tablet btls., 5 cases, 24 100-tablet btls. each, and 6 cases, 12 250-tablet btls. each, of Kiddy Kaps Tastitreat; 17 32,000-tablet drums of Kiddy Kaps Vitamin Chew tablets; and 32 cases, 24 100-tablet btls. each and 18 cases, 12 250-tablet btls. each, of Kiddy Kaps Vitamin Treat; at Buffalo, N.Y., in possession of Republic Drug Co., Inc.

SHIPPED: Between 11-9-61 and 12-29-61, from Englewood, N.J., and Cleveland, Ohio, to Buffalo, N.Y.

LABEL IN PART: (Btl.) "Kiddy Kaps Tastitreat Sugar Free Vitamin Treat for Children * * * Republic Drug Company, Inc., Buffalo, N.Y. Distributors"; (drum) "Manufactured For Republic Drug Company, Inc., Vitamin Chew Tablets"; and (btl.) "Kiddy Kaps Vitamin Treat for Children * * * Republic Drug Company, Inc., Distributors Buffalo, New York."

ACCOMPANYING LABELING: Streamers entitled "Kiddy Kap Childrens Vitamins"; place cards entitled "Free Reg. \$1.00 Size Kiddy-Kaps"; newspaper advertisement mats and impressions of same, reading, in part, "Fight Colds Build Strong Bodies * * * Kiddy Kaps," and extra bottle labels.

RESULTS OF INVESTIGATION: The dealer had repacked the Kiddy Kaps Tastitreat tablets from bulk stock and the Kiddy Kaps Vitamin Treat tablets from the 32,000-tablet drums. The bulk stock and the drums had been shipped as described above. The accompanying labeling was printed locally.

LIBELED: 2-23-62, W. Dist. N.Y.

CHARGE: 403(j)—while held for sale, the articles purported to be and were represented as foods for special dietary use by children, by reason of their vitamin content, and their labels (repacked) failed to bear, as required by regulations (Tastitreat) a statement of the proportion of the minimum daily requirement for vitamin A, vitamin B₁, vitamin C, riboflavin, and niacinamide, supplied by such food when consumed by children in a specified quantity during the period of one day; and (Vitamin Treat— 32- and 18-case lots) the statement “The need for calcium pantothenate in human nutrition has not been established.”

The articles were also alleged to be misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 7044.

DISPOSITION: 4-5-62. Consent—claimed by Republic Drug Co., Inc., and relabeled.

28491. Hematonic Formula capsules and B complex capsules. (F.D.C. No. 46747. S. Nos. 7-192/3 T.)

QUANTITY: 56 ctnd. btls. of Hematonic Formula capsules and 15 ctnd. btls. of B complex capsules, at Gloucester, Mass.

SHIPPED: Between 11-17-59 and 6-21-60, from Dallas, Tex.

LABEL IN PART: (Ctn. and btl.) “100 Capsules Hematonic Formula An Anti-Anemia Formula Vitamin B₁₂-B₁, Liver Stomach with Intrinsic Factors and Iron * * * Each capsule contains; * * * Folic Acid 1 Mg.” and (ctn. and btl.) “100 Capsules High Potency B Complex With Vitamin B-12, Minerals, Liver, Lipotropes and Intrinsic Factors * * * Each Coated Tablet Contains: * * * Folic Acid 0.5 Mg.”

LIBELED: 12-1-61, Dist. Mass.

CHARGE: 402(a) (2) (C)—while held for sale, the article contained a food additive, namely, folic acid, which is unsafe within the meaning of 409 since it and its use or intended use were not in conformity with a regulation or exemption in effect pursuant to 409.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 7012.

DISPOSITION: 1-15-62. Default—destruction.

28492. Saccharin tablets. (F.D.C. No. 47670. S. No. 73-846 T.)

QUANTITY: 1 drum, containing 50,000 1-gr. tablets; 3 drums, each containing 400,000 ¼-gr. tablets, 24 1,000 ½-gr. tablet btls., and 24 1,000 ¼-gr. tablet btls., at Brooklyn, N.Y., in possession of Jamco Co.

SHIPPED: 3-22-62 and 4-17-62, from Newark, N.J., by Certified Aspirin Corp.

LABEL IN PART: (Drum) “1 Grain [or “¼ grain”] Saacharin * * * Certified Aspirin Corp. 25 Prospect Street, Newark, N.J.” and (btl.) “Jamco * * * Saccharin ½ Grain [or “¼ Grain”] Jamco Company Distributors—New York, N.Y.”

RESULTS OF INVESTIGATION: Analysis showed that the article contained (1-gr. tablets) 80 percent, ($\frac{1}{2}$ -gr. tablets) 46 percent, and ($\frac{1}{4}$ -gr. tablets) 82 percent of the declared amounts of saccharin. The article in the bottles was repacked and labeled by the dealer from bulk stock shipped as described above.

LIBELED: 6-21-62, E. Dist. N.Y.

CHARGE: 402(b) (1)—when shipped and while held for sale, the valuable constituent, namely, saccharin, had been in part omitted or abstracted from the article; and 403(a)—the label statements (drum) "1 Grain" and " $\frac{1}{4}$ Grain" and (btl.) " $\frac{1}{2}$ Grain" and " $\frac{1}{4}$ Grain" were false and misleading.

DISPOSITION: 7-27-62. Default—destruction.

28493. Gera-Vite tablets and M-C-V tablets. (F.D.C. No. 47401. S. Nos. 4-737/8 T.)

QUANTITY: 179 100-tablet btls. of Gera-Vite tablets and 123 100-tablet btls. of M-C-V tablets, at Norfolk, Va.

SHIPPED: 7-19-56 and 12-19-58, from Philadelphia, Pa.

LABEL IN PART: (Btl.) "Special Gera-Vite Formula Liver-Vitamin-Mineral Tablets Provides more than the minimum daily requirement of Vit B-1, Riboflavin and Iron" and "Improved Formula M-C-V Tablets * * * Minerals-Calcium-Vitamins Each Tablet Contains: * * * Folic Acid 0.25 mg. * * * Adult Dose: One to three tablets a day."

LIBELED: 3-21-62, E. Dist. Va.

CHARGE: 402(a) (2) (C)—while held for sale, the M-C-V Tablets contained a food additive, namely, folic acid, which was unsafe within the meaning of 409, since it and its use, or intended use were not in conformity with a regulation or exemption in effect pursuant to 409; and 403(j)—the articles purported to be and were represented as food for special dietary use by reason of their vitamin and mineral content, and their labels failed to bear, as required by regulations, a statement of the proportion of the minimum daily requirement, for (Gera-Vite) thiamine chloride, riboflavin, ascorbic acid, niacinamide, calcium, phosphorus and iron, and (M-C-V tablets) vitamins A, D, B-1, B-2, calcium, iron, niacinamide, and ascorbic acid supplied by such food when consumed in a specified quantity during a period of one day.

DISPOSITION: 4-12-62. Default—destruction.

28494. Vitamin products. (F.D.C. No. 47554. S. Nos. 55-306/18 T.)

QUANTITY: 5 50-tablet btls., 3 100-tablet btls., and 3 250-tablet btls. of Formula 445; 11 100-tablet btls. of Formula 267; 4 250-tablet btls. of Formula 70; 4 100-tablet btls. and 3 250-tablet btls. of Formula 56; 2 500-tablet btls. and 22 250-tablet btls. of Formula 49; 7 50-tablet btls., 7 250-tablet btls. and 18 100-tablet btls. of BeBex; 2 500-tablet btls. of vitamin B complex; 1 1,080-tablet btl. and 4 180-tablet btls. of Nutrifax; 1 810-tablet btl. and 2 540-tablet btls. of Superfax; 4 5-lb. jars, 53 8-oz. jars, and 24 3-lb. jars of enriched nutritional yeast; 22 90-capsule btls. of Vitamin-mineral food supplement; 3 120-capsule btls. and 4 63-capsule btls. of Red Vite; and 1 270-tablet btl. and 2 90-tablet btls. of Vio-Min, at Jacksonville, Fla.

SHIPPED: On various unknown dates, from Los Angeles and Hollywood, Calif., York, Pa., and Yonkers, N.Y.

LABEL IN PART: "Formula 445 Organic Hematinic. Each Tablet Contains * * * Folic Acid 5 mgs."; "Formula 267 Vitamin B₁₂ Folic Acid in a base of

Duodenal Substance * * * Each Tablet Contains * * * Folic Acid 10 mcg.”; “Formula 70 Stress Vitamins B Complex Plus C & K * * * Each two tablets contain * * * Folic Acid 2 mg.”; “Formula 56 Organic Hematinic * * * Each Four Tablets Contain: * * * Folic Acid 2 mg.”; “Formula 49 Vitamin B-Complex; * * * 2 tablets 3 times daily * * * Each 6 tablets contain * * * Folic Acid 2 mg.”; “Be Bex Contains Complete, High Potency B-Complex Formula Many Essential Minerals Vitamin E and Vitamin C * * * Each Be Bex Tablet Supplies * * * Folic Acid 0.25 milligrams * * * Directions: Take one to three tablets daily”; “Vitamin B Complex Plus All Important 8-complex vitamins in a natural base * * * 1 to 3 tablets daily * * * Three * * * tablets contain: Folic Acid * * * 2 milligrams”; “Nutrifax Multi-Vitamin Tablets * * * Dosage: 2 tablets three times per day * * * will supply * * * Folic Acid 1.2 mg.”; “Superfax Multi-Vitamin Mineral Tablets * * * Dosage: 3 tablets three times daily * * * will supply; * * * Folic Acid 2.5 mg.”; “Natural B-Complex primary dried enriched Nutritional Yeast * * * a daily ration of two heaping teaspoons (10 grams) will provide * * * Folic Acid 0.7 mg.”; “Vitamin-Mineral Food Supplement * * * Three (3) tablets Daily Supply * * * Folic Acid 0.75 Mg.”; “Red-Vite A Modern Hematinic * * * 3 Red-Vite Capsules supply: * * * Folic Acid 1.0 mg. As a supplement, take 3 capsules daily”; and “Vio-Min * * * Vitamins and Minerals * * * One Vio-Min tablet after each meal. Three tablets per day supply * * * Folic Acid 2 mgs.”

LIBELED: 4-24-62, S. Dist. Fla.

CHARGE: 402(a) (2) (C)—while held for sale, the articles contained a food additive, namely, folic acid, which is unsafe within the meaning of 409, since it and its use, or intended use were not in conformity with a regulation or exemption in effect pursuant to 409.

DISPOSITION: 5-24-62. Default—destruction.

28495. Cocomalt. (F.D.C. No. 47397. S. No. 5-273 T.)

QUANTITY: 77 cases, 12 12-oz. cans each, at Halethorpe (Baltimore), Md.

SHIPPED: 1-15-62 and 2-28-62, from Jersey City, N.J., by Penick & Ford, Ltd., Inc.

LABEL IN PART: (Can) “New 12 Oz. Net Wt. Super Cocomalt * * * Multiple Vitamin Milk Fortifier Instant Chocolate Drink * * * Ingredients * * * Penick & Ford, Ltd., Inc., New York, N.Y. * * * Two Glasses a Day Give You Daily Needs of 8 Essential Vitamins and Minerals, Plus Protein Nutrition Benefits in Each 8 Oz. Serving * * * New Super Cocomalt Makes a Delicious Drink-To-Your-Health.”

LIBELED: 3-20-62, Dist. Md.

CHARGE: 403(a)—when shipped, the label statements which represented and suggested that the article was adequate and effective to promote healthy teeth and bone formation; resist infection; promote sound nerves; stimulate good appetite and normal digestion; promote growth, normal vision, and healthy skin; promote good health; maintain normal function of skin; promote growth in children; and for other purposes, were false and misleading, since they were contrary to fact; and 403(a)—the label statements of the quantity of vitamins, minerals and proteins supplied by the article when mixed with milk were misleading, since they exaggerated the nutritive properties of the article.

DISPOSITION: 4-19-62. Default—delivered to charitable institutions.

28496. Nestle's Quik. (F.D.C. No. 47377. S. Nos. 11-386/7 T.)

QUANTITY: 1,945 cases, 24 1-lb. cans each; 537 cases, 12 2-lb. 6-oz. cans each, chocolate flavor; and 472 cases, 12 1-lb. cans each, strawberry flavor, at Pittsburgh, Pa.

SHIPPED: 1-7-62 and 2-2-62, from Fulton, N.Y., by Nestle Co., Inc.

LABEL IN PART: (Can) "Nestle's Quik Delicious Chocolate Flavor Fortified with Vitamins C, D₃ and Iron! Mixes Instantly With Milk * * * Ingredients: Sugar, Dutch Processed Cocoa (alkalized); Salt; Lecithin, an emulsifier; Vanillin (artificial) and other flavorings; * * * Prepared by The Nestle Company, Inc., White Plains, N.Y."; (can) "Nestle's Quik Delicious Imitation Strawberry Flavor Fortified With Vitamins C, B₁, and Iron Mixes Instantly With Milk * * * Ingredients: Sugar, Malto-Dextrin, Citric Acid, Salt, Vanillin and other Artificial Flavors, U.S. Certified Color, * * * Prepared by The Nestle Company, Inc., White Plains, N.Y."

LIBELED: 3-12-62, W. Dist. Pa.

CHARGE: 403(a)—when shipped, the label statements which represented and suggested that the articles were adequate and effective (chocolate flavor) to promote healthy teeth and gums, sturdy bones and strong teeth; and healthy blood; and (imitation strawberry flavor) to promote healthy teeth and gums, healthy nerves and skin; and healthy blood; and that it "Keeps you in the pink"; were false and misleading, since the articles were not adequate and effective for such purposes.

DISPOSITION: 4-3-62. Consent—claimed by Nestle Co., Inc., and repacked and relabeled.

MISCELLANEOUS FOODS

28497. Oil of sassafras. (F.D.C. No. 45529. S. No. 68-541 R.)

QUANTITY: 24 lbs., in 1-gal. containers, at El Paso, Tex.

SHIPPED: 3-22-60, from New York, N.Y., by Dodge & Olcott, Inc.

LABEL IN PART: (Container) "Oil Sassafras NF Natural."

RESULTS OF INVESTIGATION: Article was repacked and labeled by the dealer as described above.

LIBELED: 3-28-61, W. Dist. Tex.

CHARGE: 402(a)(2)(C)—when shipped, the article was a food additive, namely, oil of sassafras, which was unsafe within the meaning of 409.

DISPOSITION: On 2-2-62, the claimant, Clint Jones Co., Inc., t/a Duffy's Draft Beverage Co., El Paso, Tex., having contracted to sell the article to Best Sanitary Supply Co., El Paso, Tex., and the court having found that such sale would not be for any use contrary to the provisions of the Act, an order was entered directing that the marshal deliver the article to Best Sanitary Supply Co., and that the libel proceedings be dismissed at the cost of the Government.

28498. Mineral oil. (F.D.C. No. 47156. S. No. 9-876 T.)

QUANTITY: 2 55-gal. drums, 9 1-gal. btls., 12 ½-gal. btls., 40 1-qt. btls., and 35 1-pt. btls., at Rochester, N.Y., in possession of Rochester Drug Cooperative, Inc.

SHIPPED: On an unknown date, from Philadelphia, Pa.

LABEL IN PART: (Btl.) "Extra Heavy Mineral Oil * * * An Intestinal Lubricant * * * Excellent for use as a non-fattening oil in salad dressings * * * Distributed by Rochester Drug Cooperative, Inc. Rochester, N.Y."

RESULTS OF INVESTIGATION: The article in the bottles was repacked by the dealer from bulk drums shipped as described above.

LIBELED: 2-26-62, W. Dist. N.Y.

CHARGE: 402(a)(2)(C)—while held for sale, the article contained a food additive, namely, mineral oil, which was unsafe within the meaning of 409 since it and its use or intended use were not in conformity with a regulation or exemption in effect pursuant to 409.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 7025.

DISPOSITION: 3-27-62. Consent—claimed by Rochester Drug Cooperative, Inc., and relabeled.

28499. Rice-A-Bongo. (F.D.C. No. 46034. S. No. 50-304 R.)

QUANTITY: 194 cases, 12 8½-oz. boxes each, at Denver, Colo. An aluminum foil package was included in each box.

SHIPPED: 5-12-61, from Wichita, Kans., by American Beauty Macaroni Co.

LABEL IN PART: (Box) "Rice-A-Bongo * * * Vitamin-Enriched Macaroni Rings Rice, Macaroni Rings and Chicken Flavored Soup Base. Ingredients * * * Manufactured by the American Beauty Macaroni Co."; (pkg.) "Chicken Flavored Soup Base Net Wt. 1 Oz. Ingredients: * * * Chicken Fat * * * American Beauty Macaroni Co. Kansas City, Kansas."

ACCOMPANYING LABELING: Leaflet entitled "American Beauty Rice-A-Bongo * * * Recipes * * * by the American Beauty Macaroni Company, Kansas City."

LIBELED: 6-28-61, Dist. Colo.

CHARGE: 403(a)—when shipped, the label contained a vignette and statement "Serving Illustration" which were false and misleading, since the serving depicted was not that of the article Rice-A-Bongo; 403(a)—the label statement "Chicken Flavored Soup Base" was misleading as applied to a product which contained chicken fat as the only chicken ingredient; 403(d)—the container was so made, formed, and filled as to be misleading, since the article occupied only about 63 percent of the volume of its container; and 403(j)—the article purported to be and was represented as a food for special dietary use by reason of its vitamin and mineral content and its label failed to bear, as required by regulations, a statement of the proportion of minimum daily requirements for vitamin B₁, riboflavin, niacin or niacinamide and iron, supplied by such food when consumed in a specified quantity during a period of one day.

DISPOSITION: On 7-18-61, American Beauty Macaroni Co., claimant, filed an answer which denied that the article was misbranded. Thereafter the Government filed interrogatories and claimant filed answers and objections thereto. On 2-8-62, claimant having consented, and upon a finding of misbranding under 403(j) and without an adjudication of the charges under 403(a) and (d), the court entered a decree of condemnation and the article was destroyed.

28500. Diet soup concentrate. (F.D.C. No. 47237. S. No. 4-521 T.)

QUANTITY: 20 cases, 24 9-oz. cans each, at Madison Heights, Va.

SHIPPED: 1-22-62, from Augusta, Ga., by Castleberry's Food Co., Inc.

LABEL IN PART: (Can) "Castleberry's 194 Calorie Diet Soup Concentrate for Reducing Diets and Weight Control * * * Manufactured by Castleberry's Food Co., Augusta, Ga."

LIBELED: 3-15-62, W. Dist. Va.

CHARGE: 402(a) (3)—contained rodent hairs and insect fragments when shipped.

DISPOSITION: 6-4-62. Default—destruction.

INDEX TO NOTICES OF JUDGMENT F.N.J. NOS. 28401 TO 28500

PRODUCTS

	N.J. No.		N.J. No.
AFCO wafer meal	28442	Flavors. See Spices, flavors, and seasoning materials.	
Alfalfa tablets	28488	Flour	28403-28409
Almonds, unshelled	28466	oat	28409
Apple jelly	28450	self-rising	28407, 28408
Avocado dressing	28480	Formula 49 tablets	28494
Bakery products	28401, 28402	56 tablets	28494
Barley	28436	70 tablets	28494
Beans, black-eyed. See Peas, black-eyed.		267 tablets	28494
Great Northern, dried	28452	445 tablets	28494
kidney, dried	28453	Fruits and vegetables	28447-28459
lima, dried	28453	fruit, fresh	28447, 28448
BeBex tablets	28494	jam, jelly, and preserves	28449-28451
Blueberries, fresh	28447	vegetables and vegetable products	28452-28459
Boat. See Sea Queen.		Gera-Vite tablets	28493
Butter	28438	Grape jam	28449
Cake mixes	28437	Great Northern beans, dried	28452
Candy	28437	Ham	28460
Cashew nuts	28463, 28464	Hematonic Formula capsules	28491
Cat food, canned	28443	Hominy, canned	28455
Cereals and cereal products	28401-28437	Horseradish	28481
Chickens. See Meat products and poultry.		Hot sauce	28484
Chocolate coating	28478	Hyglo meat seasoning	28482, 28483
Cocomalt	28495	Jelly. See Jams, jelly, and preserves.	
Coconut, dried	28476	Kidney beans, dried	28453
frozen	28477	Kiddy Kaps Tastitreat tablets	28490
sliced	28478	Vitamin Chew tablets	28490
Cookies	28402	Vitamin Treat tablets	28490
Cornmeal	28403, 28404	Lecitabs (lecithin tablets)	28489
Crabmeat	28446	Lemon flavoring (imitation)	28485
Dairy products	28438, 28439	Lima beans, dried	28453
Dog food, canned	28444	M-C-V tablets	28493
Eggs, frozen	28440, 28441	Malted milk	28439
Feeds and grains	28442-28444	Meat products and poultry	28460-28462
Filberts, unshelled	28465	Milk, malted	28439
Fill-Mix	28479		
Fish and shellfish	28445, 28446		

	N.J. No.		N.J. No.
Mineral oil	28498	Sassafras oil	28498
Mixes, cake	28437	Sauce, hot	28484
pancake	28437	Sauerkraut	28456
Monocalcium phosphate	28408	Sausage, Vienna	28461
Mustard greens, fresh	28457	Sea Queen (boat)	28445
Nestle's Quik	28496	Self-rising flour	28407, 28408
Nutrifax tablets	28494	Shellfish. <i>See</i> Fish and shellfish.	
Nuts and nut products	28463-28479	Soup concentrate (diet)	28500
Oats, quick-cooking	28409, 28437	Spices, flavors, and seasoning materials	28480-28487
Oil of sassafras	28497	Superfax tablets	28494
Pancake mixes	28437	Turnip greens, fresh	28458
Peanuts, shelled	28474	Vegetables. <i>See</i> Fruits and vegetables.	
Peas, black-eyed	28454	Vienna sausage	28461
Pecans, shelled	28472, 28473	Vio-Min tablets	28494
Peppers, stuffed	28459	Vitamin-mineral food supplement	28494
Perch fillets	28445	Vitamin, mineral, and other products of special dietary significance	28488-28497
Pignolia nuts	28475	Wafer meal, AFCO	28442
Pineapple(s), fresh	28448	Walnuts, shelled	28467
preserves	28451	black, shelled	28468
Pizza bits	28479	unshelled	28466
Poppyseed	28486	Wheat	¹ 28410-28435
Pumpkin seeds	28479	Yeast, nutritional	28494
Red Vite tablets	28494		
Rice-A-Bongo	28499		
Rigatoni	28437		
Saccharin tablets	28492		
Sandwich spread	28487		

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N.J. No.		N.J. No.
Alterman Foods, Inc.:		Brown Produce Co., Inc.:	
flour	28406	frozen eggs	28440
Alterman, Max:		Cargill, Inc.:	
flour	28406	wheat	28431
American Beauty Macaroni Co.:		Carnation Co.:	
Rice-A-Bongo	28499	malted milk	28439
American Feed Co.:		Castleberry's Food Co., Inc.:	
AFCO wafer meal	28442	diet soup concentrate	28500
Bakers' Service Co.:		Certified Aspirin Corp.:	
sliced coconut and chocolate coating	28478	saccharin tablets	28492
Ballas Egg Products Co., Inc.:		Circus Foods, Inc., Div. of USTCO Products Corp.:	
frozen eggs	28440	cashew nuts	28463
Becker Grain Co.:		Ciruli Bros.:	
wheat	28425	fresh mustard greens	28457
Brown, Clayton, Co., Inc.:		Cleveland Provision Co.:	
flour	28407	Vienna sausage	28461
Brown, O. E.:		Compton Nut Co.:	
frozen eggs	28440	shelled walnuts	28467
		Convenient Foods Co.:	
		frozen coconut	28477

¹ (28410) Injunction issued.

	N.J. No.		N.J. No.
Crown Foods, Inc.:		Feifer, Ira:	
sauerkraut -----	28456	AFCO wafer meal-----	28442
Cullum, A. W., & Co.:		Filler Products, Inc.:	
cake mixes, pancake mixes,		pumpkin seeds, Fill-Mix, and	
rigatoni, quick cooking oats,		pizza bits-----	28479
and candy-----	28437	First Spice Mixing Co., Inc.:	
Cullum, A. W., III:		Hyglo meat seasoning--	28482, 28483
cake mixes, pancake mixes,		Frontier Baking Co.:	
rigatoni, quick cooking oats,		bakery products-----	28401
and candy-----	28437	Funsten Nut Co.:	
Cullum, R. B.:		shelled pecans-----	28472
cake mixes, pancake mixes,		Garriga, Julio, Jr.:	
rigatoni, quick cooking oats,		Vienna sausage-----	28461
and candy-----	28437	General Mills, Inc.:	
Dayco Laboratories, Inc.:		oat flour and quick cooking	
alfalfa tablets-----	28488	oats -----	28409
Delight Certified Egg Farms,		General Mills Purity Oats Opera-	
Inc.:		tion. See General Mills,	
frozen eggs-----	28441	Inc.:	
Dildy, A. C.:		Grenora Farmers Elevator Co.:	
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Dixie Cookie Co.:		Griffin Manufacturing Co.:	
cookies -----	28402	canned hominy-----	28455
Dodge & Olcott, Inc.:		Gulf Shore Seafood, Inc.:	
oil of sassafras-----	28497	crabmeat -----	28446
Donig Co., Inc.:		Hallet & Carey Co.:	
shelled black walnuts-----	28468	wheat -----	28416
Fabro, Inc.:		Herman Grain & Seed:	
canned dog food-----	28444	wheat -----	28417
Farmers Cooperative Associa-		Herold & Miller, Inc.:	
tion:		cornmeal, flour, peanuts, lima	
wheat -----	28418	beans, and rice-----	28404
Farmers Cooperative Union Ele-		Holsum Products. See Jewett &	
vator:		Sherman Co.	
wheat -----	28419	Jamco Co.:	
Farmers Elevator of Hazen:		saccharin tablets-----	28492
wheat -----	28427	Jefferies, G. A., Jr.:	
Farmers Elevator of Scobey:		ham -----	28460
wheat -----	28434	Jefferies Market, Inc.:	
Farmers Grain Co.:		ham -----	28460
wheat -----	28433	Jewett & Sherman Co.:	
Farmers Union Elevator Co.:		grape jam-----	28449
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Farmers Union Grain Terminal		wheat -----	28432
Association:		Joy, Arthur:	
barley -----	28436	fresh blueberries-----	28447
wheat -----	28412, 28424, 28435	Joy, Samuel:	
Farmers Union Trading Associa-		fresh blueberries-----	28447
tion:		Kraft Foods Co., Div. of National	
wheat -----	28411	Dairy Products Corp.:	
		sandwich spread-----	28487

	N.J. No.		N.J. No.
Kroger Co.:		Planters Peanuts:	
butter -----	28438	shelled mixed nuts-----	28469
Laurinburg Milling Co.:		Pure Foods Co.:	
self-rising flour and monocal-		horseradish -----	28481
cium phosphate -----	28408	Red Wing Co., Inc.:	
Leggett, F. H., & Co.:		apple jelly-----	28450
pignolia nuts-----	28475	Reeder Equity Elevator:	
Liberty Cash Grocers, Inc.:		wheat -----	28423
flour -----	28405	Republic Drug Co., Inc.:	
Lignon, E. W., Produce Co.:		Kiddy Kaps vitamins-----	28490
fresh turnip greens-----	28458	Richardton Farmers Union Ele-	
Manhattan Pickle Co.:		vator Co.:	
stuffed peppers-----	28459	wheat -----	28428
McNeill, C. D.:		Robinson Grain Co.:	
wheat ----- ¹	28410	wheat ----- ¹	28410
Michigan Elevator Exchange:		Rochester Drug Cooperative,	
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Middleby, Joseph, Jr., Inc.:		mineral oil-----	28498
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Miskind, Herbert:		cornmeal and flour-----	28403
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Morgan Packing Co.:		frozen chickens-----	28462
dried lima beans and dried		Safeway Stores, Inc.:	
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National Dairy Products Corp.		shelled almonds-----	28466
See Kraft Foods Co. See		Sauer, Wm.:	
also Sugar Creek Creamery.		wheat ----- ¹	28410
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Lecitabs (lecithin tablets)---	28489	perch fillets-----	28445
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Nestle Co., Inc.:		Stanfield Food Products:	
Nestle's Quik-----	28496	avocado dressing-----	28480
Newark Packing Co., Inc.:		Sugar Creek Creamery, Div. of	
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North Dakota Mill & Elevator:		Corp.:	
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Ozark Wholesale Supply Co.,		bakery products-----	28401
Inc.:		Trappey's, B. F., Sons, Inc.:	
Great Northern beans-----	28452	hot sauce-----	28484
Pagliasotti, G. N.:		USTCO Products Corp. See	
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Peavey-Occident Elevators:		Union Starch & Refining Co.:	
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Penick & Ford, Ltd., Inc.:		Williams, P. P., Co.:	
cocomalt -----	28495	cornmeal and flour-----	28403
Planters Nut & Chocolate Co.:		Wilson & Co.:	
shelled mixed nuts-----	28469	butter -----	28438

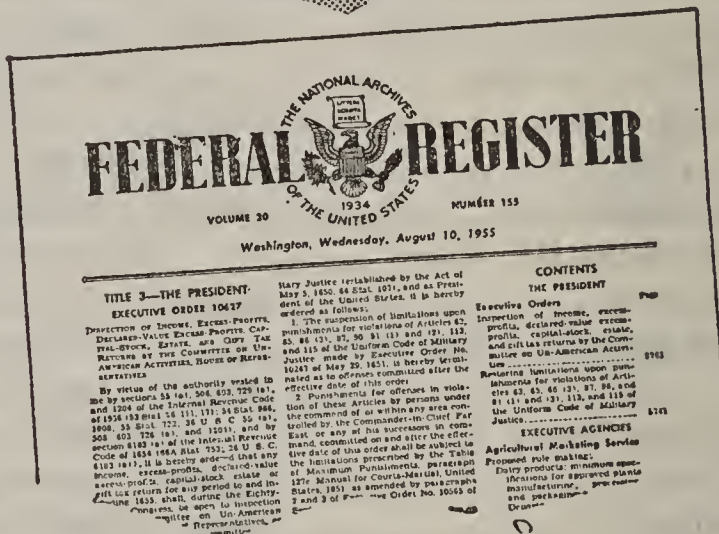
¹ (28410) Injunction issued.

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U.S. Department of Health, Education, and Welfare

U.S. DEPT. OF AGRICULTURE

FOOD AND DRUG ADMINISTRATION

NATIONAL AGRICULTURAL LIBRARY

NOTICES OF JUDGMENT UNDER THE FEDERAL

DRUG, AND COSMETIC ACT

JULY 20 1963

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act] **CURRENT SERIAL RECORDS**

28501-28600

FOODS

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce, when shipped to a holder of a guaranty, or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered after default, or consent, in which the proceedings were dismissed after the destruction of the article by consent in one case, and in which a bond, under which an article had been released pursuant to a consent decree, was forfeited in one case; (2) criminal proceedings which were terminated upon pleas of guilty and nolo contendere or, in one case after a trial by a jury, upon a verdict of not guilty against three defendants and of guilty against one; and (3) injunction proceedings terminated upon the entry of an injunction by consent in one case, and upon the entry of a permanent injunction after a dismissal of the complaint for injunction, an appeal, the reversal of the dismissal, and a trial before the court and a special jury, in one case. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal and the injunction proceedings were against the *firms* and *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D.C., June 26, 1963.

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SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F.N.J. NOS. 28501-28600

Adulteration, Section 402(a) (2) (A), the article contained an added deleterious substance, which was unsafe within the meaning of Section 406; Section 402(a) (2) (B), the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408(a); Section 402(a) (2) (C), the article contained a food additive which was unsafe within the meaning of Section 409; Section 402(a) (3), the article consisted in whole or in part of a filthy, putrid, or decomposed substance, or it was otherwise unfit for food; Section 402(a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it might have become contaminated with filth or might have been rendered injurious to health; Section 402(b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b) (2), a substance had been substituted wholly or in part for the article; Section 402(b) (4), a substance had been added to the article or mixed or packed therewith so as to make it appear better or of greater value than it was; Section 406, a deleterious substance was added to food when such substance was not required in the production thereof and could have been avoided by good manufacturing practice; Section 408(a), a poisonous or deleterious pesticide chemical, or a pesticide chemical not generally recognized, among qualified experts, as safe for use, added to a raw agricultural commodity, was deemed to be unsafe because no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare; or because the quantity of the pesticide chemical in or on the raw agricultural commodity was not within the limits of a tolerance prescribed by the Secretary of Health, Education, and Welfare; and Section 409, a food additive was deemed to be unsafe because the food additive and its use or intended use failed to conform to the terms of an effective exemption or because there was not in effect, or the food additive and its use or intended use failed to be in conformity with, a regulation prescribing conditions for safe use.

Misbranding, Section 403(a), the labeling of the article was false and misleading; Section 403(e), the article was in package form, and it failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of the contents in terms of weight, measure or numerical count; Section 403(f), a word, statement, or other information required by or under authority of the Act to appear on the label or labeling was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; Section 403(g), the article purported to be or was represented as a food for which a definition and standard of identity had been prescribed by regulations and (1) it failed to conform to such definition and standard and (2) its label failed to bear as required by regulations, the common names of certain optional ingredients present in such food; Section 403(h) (1), the article purported to be or was represented as a food for which a standard of quality had been prescribed by regulations, and its quality fell below such standard; Section 403(i) (1), the article was not subject to the provisions of Section 403(g) and its label failed to bear the common or usual name of the article; and Section 403(j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information concerning its vitamin, mineral, and other dietary

properties as the Secretary had determined to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such uses.

BEVERAGES AND BEVERAGE MATERIALS

28501. Beer. (F.D.C. No. 47572. S. No. 41-400 T.)

QUANTITY: 75 cases, each containing 24 btls., at Newark, N.J.

SHIPPED: 4-11-62, from Brooklyn, N.Y., by Joseph Schlitz Brewing Co., Inc.

LABEL IN PART: (Btl.) "Schlitz The Beer that made Milwaukee Famous Contents 12 Fluid Ounces * * * Brewed and Bottled at Brooklyn, N.Y. * * * By Jos. Schlitz Brewing Company, Inc."

RESULTS OF INVESTIGATION: Examination showed that the article was short in volume.

LIBELED: 5-7-62, Dist. N.J.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 10-1-62. Default—delivered to charitable institutions.

28502. Pepsi-Cola. (F.D.C. No. 45577. S. Nos. 54-950 R, 54-952 R, 54-959 R.)

INFORMATION FILED: 6-15-62, E. Dist. Mo., against Pepsi-Cola Bottlers of St. Louis, Inc., St. Louis, Mo., Reginald H. Coe, president, and Melvon M. Millsap, superintendent.

SHIPPED: Between 11-28-60 and 12-9-60, from St. Louis, Mo., to Madison, East St. Louis, and Columbia, Ill.

LABEL IN PART: (Btl.) "BOTTLED UNDER AUTHORITY OF PEPSI-COLA COMPANY BY PEPSI-COLA BOTTLERS OF ST. LOUIS, INC. PEPSI COLA 12 FL. OZ."

CHARGE: 402(a)(3)—the article contained dirt, debris, and insect fragments when shipped.

PLEA: Nolo contendere.

DISPOSITION: 8-3-62. Corporation—\$2,000 fine; individuals—\$700 fine each.

28503. Tea. (F.D.C. No. 47191. S. No. 54-532 T.)

QUANTITY: 176 ctns., each containing 48 boxes, at Augusta, Ga.

SHIPPED: 1-4-62, from Suffolk, Va., by Thomas J. Lipton, Inc.

LABEL IN PART: (Box) "Lipton Tea * * * 1 $\frac{3}{8}$ Ounces Net Wt. Orange Pekoe And Pekoe Black Tea * * * Thomas J. Lipton, Inc. (packer), Hoboken, N.J."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 3-2-62, S. Dist. Ga.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: On 4-23-62, Thomas J. Lipton, Inc., showed to the court that it was the owner of the article and moved that it be permitted to obtain a representative sample, a copy of the analysis on which the proceeding was based, and the identifying marks, or numbers, of the packages from which the samples analyzed were obtained. Thereafter, the information requested was supplied and, on 5-31-62, a consent order for the taking of samples by the claimant and by the Food and Drug Administration was filed. On

8-14-62, the claimant filed an answer claiming the article and denying that it was misbranded as charged.

On 11-1-62, the claimant having consented, without prejudice, solely for the purpose of avoiding the expense of litigation and otherwise contesting the claims of the Government, an order of condemnation was entered. The article was delivered to a charitable institution.

CEREALS AND CEREAL PRODUCTS

CORNMEAL*

28504. Cornmeal and shelled peanuts. (F.D.C. No. 43054. S. Nos. 21-230 P, 55-469 P.)

INFORMATION FILED: 4-15-59, E. Dist. Okla., against S. D. Giacomo & Co., a partnership, and Vito Barzellone, partner and manager, Krebs, Okla.

ALLEGED VIOLATION: Between 9-29-58 and 12-12-58, while quantities of peanuts and cornmeal were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building that was accessible to rodents and birds and to be exposed to contamination by rodents and birds, thereby causing the articles to become adulterated.

CHARGE: 402(a)(3)—the cornmeal contained rodent urine, rodent hairs, and rodent excreta pellets; and 402(a)(4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 5-26-59. Partnership—\$200 fine; individual—\$250 fine.

28505. Cornmeal. (F.D.C. No. 48114. S. Nos. 5-341/3 T.)

QUANTITY: 35 bales, each containing 10 5-lb. bags, and 50 bales, each containing 25 2-lb. bags of cornmeal; and 30 bales, each containing 25 2-lb. bags of self-rising cornmeal, at Norfolk, Va.

SHIPPED: 8-31-62, from Como, N.C., by Chowan Milling Co., Inc.

LABEL IN PART: (Bag) "Mechanically Packed and Weighed White Old Time Stone Ground Plain Corn Meal * * * Milled By Chowan Milling Co., Inc., Como, N.C." and "White Old Time Stone Ground Self-Rising Corn Meal Milled by Chowan Milling Co., Inc., Como, N.C."

LIBELED: 9-18-62, E. Dist. Va.

CHARGE: 402(a)(3)—contained whole insects (2 lots); and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 10-10-62. Default—delivered to a Federal institution for use as animal feed.

28506. Cornmeal. (F.D.C. No. 47982. S. No. 41-770 T.)

QUANTITY: 42 100-lb. bags at Garfield, N.J.

SHIPPED: 6-22-62 and 7-5-62, from New York, N.Y.

LIBELED: 8-21-62, Dist. N.J.

CHARGE: 402(a)(3)—contained insects, insect larvae, and insect parts while held for sale.

DISPOSITION: 10-11-62. Consent—destruction.

*See also Nos. 28514, 28519, 28572, 28589.

28507. Cornmeal. (F.D.C. No. 48117. S. No. 91-065 T.)

QUANTITY: 208 25-lb. bags at Dallas, Tex., in possession of Affiliated Food Stores, Inc.

SHIPPED: 7-19-62 and 8-9-62, from Shawnee, Okla.

LIBELED: On or about 10-5-62, N. Dist. Tex.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 12-4-62. Default—destruction.

FLOUR*

28508. Flour. (F.D.C. No. 47073. S. Nos. 47-962/5 T.)

INFORMATION FILED: 5-2-62, W. Dist. Ark., against Stephens Grocer Co., Hope, Ark., and Herbert M. Stephens, president.

ALLEGED VIOLATIONS: Between 7-7-61 and 10-4-61, while quantities of flour were being held for sale after shipment in interstate commerce, the defendants caused the article to be held in a building that was accessible to birds and insects and to be exposed to contamination by birds and insects, which acts resulted in the article being adulterated.

CHARGE: 402(a)(3)—contained bird excreta, insects, insect excreta, and webbing; and 402(a)(4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 9-26-62. Corporation—fined \$200 and placed on probation for 1 year; individual—acquitted.

28509. Flour. (F.D.C. No. 48089. S. No. 77-057 T.)

QUANTITY: 99,000 lbs., at Spencer, N.C.

SHIPPED: 7-18-62, from Hopkinsville, Ky.

RESULTS OF INVESTIGATION: Investigation revealed that the rail car containing the article had been overturned and had been damaged, while in transit, thereby exposing the article.

LIBELED: 9-5-62, M. Dist. N.C.

CHARGE: 402(a)(3)—while in interstate commerce, the article contained insects and insect larvae.

DISPOSITION: 9-27-62. Consent—claimed by Southern Railway Co. and denatured.

28510. Flour. (F.D.C. No. 48002. S. No. 80-933 T.)

QUANTITY: 30 bales, each containing 10 5-lb. bags at Paris, Tex., in possession of Kimbell-Paris Co.

SHIPPED: 3-5-62, from either Kansas or Illinois.

LIBELED: 8-23-62, E. Dist. Tex.

CHARGE: 402(a)(3)—contained insects and insect larvae; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 10-5-62. Consent—delivered to a public institution for use as animal feed.

*See also Nos. 28572, 28592.

28511. Flour. (F.D.C. No. 47350. S. Nos. 633/6 T.)

INFORMATION FILED: 11-9-62, M. Dist. Ga., against H. V. Kell Co., a corporation, Cairo, Ga.

ALLEGED VIOLATIONS: Between 11-14-61 and 1-23-62, while various quantities of flour were being held for sale after shipment in interstate commerce, the defendants caused the article to be held in a building accessible to insects and rodents and caused the article to be exposed to contamination by insects and rodents, which acts resulted in the article being adulterated.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 11-26-62. \$250 fine.

28512. Flour. (F.D.C. No. 48027. S. No. 83-591 T.)

QUANTITY: 133 25-lb. bags at Brinkley, Ark., in possession of Dial Wholesale Grocer Co.

SHIPPED: 7-26-62, from Yukon, Okla.

LIBELED: 9-12-62, E. Dist. Ark.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 11-20-62. Consent—claimed by Lambert Dial, t/a Dial Wholesale Grocer Co., and denatured.

28513. Flour and bicarbonate of soda. (F.D.C. No. 47857. S. Nos. 1-461 R, 75-322/3 R, 1-384 T.)

INFORMATION FILED: 9-13-62, M. Dist. Ga., against Griffin Grocery Co., Inc., a corporation, t/a Happyvale Flour Mills, Fort Valley, Ga.

ALLEGED VIOLATIONS: Between 1-22-60 and 3-19-62, the defendant caused quantities of flour and bicarbonate of soda, while held for sale after shipment in interstate commerce, to be held in a building accessible to rodents and insects and to be exposed to contamination by rodents and insects, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—the flour contained rodent urine, insects, and insect larvae; the bicarbonate of soda contained rodent excreta and rodent urine; and 402(a)(4)—the articles were held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 9-28-62. \$1,000 fine.

28514. Flour, cornmeal and unshelled peanuts. (F.D.C. No. 47853. S. Nos. 47-758/60 T, 47-762 T, 47-768 T, 47-775 T.)

INFORMATION FILED: 9-6-62, W. Dist. Tenn., against National Food Stores of Louisiana, Inc., Memphis, Tenn.

ALLEGED VIOLATIONS: Between 8-11-61 and 1-22-62, the defendant caused quantities of flour, cornmeal, and peanuts, while held for sale after shipment in interstate commerce, to be held in a building accessible to rodents and to be exposed to contamination by rodents, which acts resulted in the article being adulterated.

CHARGE: 402(a)(3)—the articles contained rodents, rodent excreta, urine, and hairs; and 402(a)(4)—the articles were held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 9-28-62. \$3,000 fine.

28515. Flour. (F.D.C. No. 48329. S. No. 46-706 V.)

QUANTITY: 122 100-lb. bags at Madison, Ill.

SHIPPED: 8-21-62, from Kansas City, Kans.

LIBELED: 10-18-62, S. Dist. Ill.

CHARGE: 402(a)(3)—contained rodent urine and rodent excreta while held for sale.

DISPOSITION: 12-10-62. Default—destruction.

28516. Flour. (F.D.C. No. 47739. S. No. 80-515 T.)

QUANTITY: 2,169 100-lb. bags at Dallas, Tex.

SHIPPED: Between 1-29-62 and 7-12-62, from Minneapolis, Minn.

LIBELED: On or about 8-9-62, N. Dist. Tex.

CHARGE: 402(a)(3)—contained insects and insect larvae while held for sale.

DISPOSITION: 12-14-62. Default—delivered to a Federal institution for use as animal feed.

28517. Flour. (F.D.C. No. 48028. S. Nos. 83-589/90 T.)

QUANTITY: 176 10-lb. bags of all-purpose flour and 114 10-lb. bags of self-rising flour, at Forrest City, Ark., in possession of Forrest City Grocery Co.

SHIPPED: 7-7-62 and 8-2-62, from Kansas City, Mo.

LIBELED: 9-12-62, E. Dist. Ark.

CHARGE: 402(a)(3)—contained insects, insect larvae, and insect cast skins; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 12-28-62. Default—delivered to a public institution for use as animal feed.

28518. Flour and sugar. (F.D.C. No. 47551. S. Nos. 45-489/90 T.)

QUANTITY: 158 50-lb. bags of flour, and 45 25-lb. bags of sugar, at Milan, Ill., in possession of Eagle Food Centers, Inc.

SHIPPED: Between 11-28-61 and 2-23-62, the flour from Minneapolis, Minn., and the sugar from San Francisco, Calif.

LIBELED: 4-30-62, S. Dist. Ill.

CHARGE: 402(a)(3)—contained rodent excreta pellets and urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: On 8-2-62, Eagle Food Centers, Inc., claimed the articles, denied that the articles were adulterated or, in the alternative, alleged that, if the articles were adulterated, they were or became so prior to the receipt of them by the claimant, and consented to the destruction of the articles. On 12-18-62, a default decree was entered, and thereafter the articles were destroyed.

28519. Flour and cornmeal. (F.D.C. No. 47119. S. Nos. 60-386/7 R, 60-595 R.)

INFORMATION FILED: 11-19-62, S. Dist. Miss., against The Merchants Co., Inc., t/a The Merchants Co., Jackson, Miss., and James B. Powers, warehouse manager.

ALLEGED VIOLATIONS: Between 1-24-61 and 5-25-61, while quantities of flour and cornmeal were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building that was accessible to rodents, insects, and birds and to be exposed to contamination by rodents, insects, and birds, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—contained rodent urine, rodent excreta and rodent hairs; and 402(a)(4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 11-19-62. Each defendant fined \$225.

28520. Flour. (F.D.C. No. 48213. S. No. 86-109 T.)

QUANTITY: 800 25-lb. bags, and 200 100-lb. bags, at Brooklyn, N.Y.

SHIPPED: 9-15-62, from Breathedsville, Md., by C. E. Routzahn, Inc.

LABEL IN PART: (Bag) "Superior 25 Lbs. Veribest Family Flour Distributed by Raymond-Hadley Corp. New York, N.Y. * * * Unbleached-Unenriched" and "Veribest Flour Superior 100 Lbs. * * * Cake and Pastry Flour Distributed by Raymond-Hadley Corp. New York, N.Y."

LIBELED: 10-10-62, E. Dist. N.Y.

CHARGE: 402(a)(3)—contained insect larvae and insect parts; 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 11-19-62. Consent—claimed by C. E. Routzahn, Inc., and converted into poultry feed.

28521. Corn flour. (F.D.C. No. 44934. S. No. 92-125 P.)

INFORMATION FILED: 11-14-60, E. Dist. La., against Orleans Storage Co., Inc., New Orleans, La., and Andrew M. Cooke, president.

ALLEGED VIOLATIONS: Between 11-30-59 and 12-11-59, while a number of bags of corn flour were being held for sale after shipment in interstate commerce, the defendants caused the article to be held in a building that was accessible to rodents and insects and caused the article to be exposed to contamination by rodents and insects, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 12-14-62. Corporation—\$300 fine; Cooke—\$50 fine.

MACARONI AND NOODLE PRODUCTS

28522. Macaroni. (F.D.C. No. 47326. S. No. 34-207 T.)

INFORMATION FILED: 7-25-62, Dist. Minn., against Minnesota Macaroni Co., a corporation, St. Paul, Minn., Walter F. Villaume, Jr., executive vice president, and Victor J. Bagnas, plant superintendent.

SHIPPED: 11-10-61, from St. Paul, Minn., to Fargo, N. Dak.

LABEL IN PART: (Ctn.) "NET WT. ONE LB. Jenny Lee's quick cooking ELBOW MACARONI Mfd. by Minnesota Macaroni Company St. Paul, Minn."

CHARGE: 402(a)(4)—when shipped, the article had been prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 11-13-62. Corporation—\$500 fine; Villaume—\$100 fine; Bagnas—\$100 fine.

28523. Macaroni products and egg noodles. (F.D.C. No. 47881. S. Nos. 43-132 R, 51-120 T.)

INFORMATION FILED: 9-19-62, W. Dist. Wash., against Major Italian Foods Co., Inc., Seattle, Wash., and Ernest A. Merlino, executive vice president and treasurer.

SHIPPED: 4-4-61 and 11-9-61, from Seattle, Wash., to Redwood City, Calif., and Eugene, Oreg.

LABEL IN PART: (Pkg.) "Majorette Brand Family Pak Macaroni Products Net Wt. 4 Lbs. Major Italian Foods Seattle, Washington"; "Majorette Brand Family Pak Egg Noodles Net Weight 24 Ounces Major Italian Foods Seattle, Washington. Contains 5.5% or more of U.S. Dept. Ag. graded egg yolks."

CHARGE: 402(a)(3)—the macaroni products contained insects and insect fragments when shipped.

402(b)(1)—when shipped, a valuable constituent, namely, egg solids, had been in part omitted from the egg noodles; 403(a)—the statement "Contains 5.5% or more of U.S. Dept. Ag. graded egg yolks" appearing on the label of the article was false and misleading in that it represented that the food contained 5½ percent egg yolk solids, whereas the food contained less than 5½ percent of egg yolk solids; 403(g)(1)—the article purported to be and was represented as egg noodles, a food for which a definition and standard of identity had been prescribed by regulations, and it failed to conform to such definition and standard since the total solids of the article contained less than 5.5 percent by weight of the solids of egg, or egg yolk.

PLEA: Nolo contendere.

DISPOSITION: 11-26-62. Corporation—\$2,000 fine and probation for 3 years; Merlino—probation for 3 years.

28524. Vermicelli and macaroni. (F.D.C. No. 46002. S. Nos. 50-992/4 R, 50-997 R.)

INFORMATION FILED: 8-10-61, W. Dist. Tex., against El Paso Macaroni Co., Inc., El Paso, Tex., and Ernest Ponce, president.

SHIPPED: Between 9-21-60 and 10-4-60, from El Paso, Tex., to Denver, Colo.

LABEL IN PART: "Ernie Ponce's R.F. Nested Vermicelli [or Macaroni Products] Vitamin Enriched 12 ounces [or 10 ounces] A Product of El Paso Macaroni Co., Inc. El Paso, Texas."

CHARGE: 402(a)(3)—contained insect fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 11-16-62. Corporation and individual fined \$400 each.

28525. Egg noodles. (F.D.C. No. 46025. S. Nos. 17-531/2 R, 50-208 R.)

INFORMATION FILED: 8-23-61, Dist. Colo., against American Beauty Macaroni Co., a corporation, Denver, Colo., and Edward R. Vagnino, production manager.

SHIPPED: Between 12-13-60 and 1-27-61, from Colorado to Wyoming.

LABEL IN PART: (Ctns.) "American Beauty Fine [or "Wide"] Egg Noodles"; (bags) "Egg Noodles Contains 5½% Egg Solids * * * American Beauty Macaroni Company St. Louis · Kansas City · Dallas (or Wichita) · Denver · Salt Lake City."

CHARGE: 402(b)(1)—when shipped, the valuable constituent, egg solids, had been in part omitted from the article; 402(b)(2)—a product which contained less than 5.5 percent of egg solids had been substituted for a product containing not less than 5.5 percent of egg solids; 403(a)—the label statement "Contains 5½% Egg Solids" was false and misleading; and 403(g)(1)—the article

failed to conform to the definition and standard of identity for egg noodles in that the article contained less than 5.5 percent by weight of the solids of egg or egg yolk.

PLEA: Nolo contendere by the corporation to 6 counts; by Vagnino to 1 count.

DISPOSITION: 3-30-62. Corporation—\$900 fine; Vagnino—\$200 fine.

28526. Egg noodles. (F.D.C. No. 48231. S. No. 18-206 V.)

QUANTITY: 113 cases, each containing 24 5-oz. bags, at Corpus Christi, Tex.

SHIPPED: Between 7-12-62 and 7-30-62, from Omaha, Nebr.

LIBELED: 10-15-62, S. Dist. Tex.

CHARGE: 402(a)(3)—contained insects and insect larvae while held for sale.

DISPOSITION: 11-23-62. Default—destruction.

28527. Spaghetti. (F.D.C. No. 47607. S. No. 61-709 T.)

QUANTITY: 63 cases, each containing 20 1-lb. pkgs., at Readville, Mass.

SHIPPED: Between 4-6-62 and 4-18-62, from Danielson, Conn., by V. La Rosa & Sons, Inc.

LABEL IN PART: (Pkg.) "La Rosa Grade A Enriched Macaroni * * * Thin Spaghetti (Spaghetтини) No. 9 Italian Style * * * V. La Rosa & Sons, Inc. Brooklyn, N.Y."

LIBELED: 5-21-62, Dist. Mass.

CHARGE: 402(a)(3)—contained insect fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 10-1-62. Default—delivered to a public institution for use as animal feed.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS*

28528. Wheat. (Inj. 439.)

COMPLAINT FOR INJUNCTION FILED: 6-29-62, Dist. Idaho, against Colorado Milling & Elevator Co., American Falls, Idaho, and J. Lawson Cook, executive vice president.

CHARGE: The complaint alleged that the defendant, Colorado Milling & Elevator Co., operated, within the State of Idaho, a number of grain elevators for the storage of wheat and that defendant Cook was charged with overall management and control of the firm's elevators. It alleged further that from time to time inspection of some Idaho elevators by Food and Drug inspectors had revealed the existence of insanitary conditions by reason of insect and rodent infestation which could and did contaminate the wheat; that defendants had caused the wheat to be introduced and delivered for introduction into interstate commerce in violation of the Act since the wheat was adulterated within the meaning of 402(a)(3), in that it consisted in part of filthy substances such as rodent excreta pellets and insects; and 402(a)(4), in that it was held under insanitary conditions whereby it may have become contaminated with filth; and that interstate shipments of the wheat had been seized and condemned under the Act.

DISPOSITION: On 6-29-62, the defendants having denied the allegations of the complaint but having consented to the entry of a decree, the court entered a decree of injunction which would remain in effect until 12-31-63, enjoining

*See also No. 28572.

the defendants from directly or indirectly causing to be introduced or delivered for introduction into interstate commerce in the State of Idaho any wheat for human consumption or any similar article of food which is adulterated within the meaning of 402(a)(3) in that it consists in part of any filthy substance, such as rodent excreta pellets or insects; or 402(a)(4), in that it has been held under insanitary conditions whereby it may have become contaminated with filth.

28529. Wheat. (F.D.C. No. 48008. S. Nos. 78-855 T, 79-002 T.)

QUANTITY: 94,440 lbs. at Minneapolis, Minn.

SHIPPED: 8-2-62, from Kranzburg, S. Dak., by Lester Hansen Elevator Co.

LIBELED: 8-28-62, Dist. Minn.

CHARGE: 402(a)(2)(B)—the article was a raw agricultural commodity and, when shipped, contained a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408(a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat has been prescribed by regulations.

DISPOSITION: 9-5-62. Consent—claimed by Lester Hansen Elevator Co. and reconditioned for use as seed; 18,895 lbs. destroyed.

28530. Wheat. (F.D.C. No. 48010. S. No. 79-562 T.)

QUANTITY: 50,770 lbs. at Minneapolis, Minn.

SHIPPED: 8-7-62, from Summit, S. Dak., by Summit Cooperative Grain Association.

LIBELED: 8-28-62, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 9-7-62. Consent—claimed by Summit Cooperative Association, and denatured.

28531. Wheat. (F.D.C. No. 47473. S. No. 70-682 T.)

QUANTITY: 84,000 lbs., at Minneapolis, Minn.

SHIPPED: 4-9-62, from Artas, S. Dak., by Frank H. Higgins Co.

LIBELED: 5-1-62, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: On 5-4-62, Frank H. Higgins Co., claimant, filed an answer alleging that when the article was shipped from Artas, S. Dak., it was not adulterated, but stating that it did not contest the allegations of the libel and consented to a decree of condemnation. On 5-4-62, a consent decree was entered, and the article was reconditioned and segregated; 29,310 lbs. were destroyed.

28532. Wheat. (F.D.C. No. 48037. S. No. 79-090 T.)

QUANTITY: 105,480 lbs. at Minneapolis, Minn.

SHIPPED: 9-6-62, from Strasburg, N. Dak., by Farmer Elevator Co.

LIBELED: 9-25-62, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 10-2-62. Consent—claimed by Farmer Elevator Co., and denatured.

28533. Wheat. (F.D.C. No. 47813. S. No. 73-428 T.)

QUANTITY: 120,000 lbs., at Buffalo, N.Y.

SHIPPED: 6-29-62, from Georgetown, Ill., by Federal North Iowa Grain Co.

LIBELED: 7-30-62, W. Dist. N.Y.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, namely, a mercurial compound, which was unsafe within the meaning of 408(a) since no tolerance or exemption from the requirement of a tolerance had been prescribed by regulations.

DISPOSITION: 10-9-62. Consent—claimed by Federal North Iowa Grain Co. and released under bond to be ground, denatured, bagged, and labeled as unfit for human or animal consumption. On 10-18-62, an order amending the decree of condemnation was filed which provided that the article be denatured and which allowed the claimant to store the denatured article in bulk. The article was denatured for use in the manufacture of fertilizer.

28534. Wheat. (F.D.C. No. 47780. S. No. 70-599 T.)

QUANTITY: 110,000 lbs. at Duluth, Minn.

SHIPPED: 5-28-62, from Tower City, N. Dak., by Peavey Occident Elevator.

LIBELED: 6-27-62, Dist. Minn.

CHARGE: 402(a)(2)(B)—the article was a raw agricultural commodity and, when shipped, contained a pesticide chemical, namely, a mercurial compound, which was unsafe within the meaning of 408(a) since no tolerance or exemption from the requirement of a tolerance for the pesticide chemical on wheat has been prescribed by regulations.

DISPOSITION: 7-12-62. Consent—claimed by Peavey Occident Elevator and reconditioned; 10,660 lbs. destroyed.

28535. Wheat. (F.D.C. No. 47778. S. No. 71-357 T.)

QUANTITY: 6,929 bushels at Thomas, Okla.

SHIPPED: Between 6-13-62 and 6-15-62, from Eads, Colo., by Robinson Grain Co.

LIBELED: 6-26-62, W. Dist. Okla.

CHARGE: 402(a)(3)—contained insect-damaged kernels when shipped.

DISPOSITION: 9-26-62. Consent—claimed by E. B. McNeil Grain Co., Thomas, Okla., and converted into animal feed.

28536. Wheat. (F.D.C. No. 47745. S. No. 70-229 T.)

QUANTITY: 81,140 lbs. at Minneapolis, Minn.

SHIPPED: 4-25-62, from McClusky, N. Dak., by McClusky Farmers Elevator.

LIBELED: 6-13-62, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 6-19-62. Consent—claimed by McClusky Farmers Elevator, and reconditioned; 21,550 lbs. destroyed.

28537. Rice. (F.D.C. No. 42894. S. No. 47-774 P.)

QUANTITY: 59 100-lb. bags at Boston, Mass.

SHIPPED: 12-19-57, from Beaumont, Tex.

LIBELED: 3-23-59, Dist. Mass.

CHARGE: 402(a)(3)—contained insect larvae while held for sale.

DISPOSITION: 4-27-59. Default—delivered to a public institution for use as animal feed.

28538. Rice. (F.D.C. No. 47105. S. Nos. 76-236 R, 1-037 T.)

INFORMATION FILED: 6-14-62, E. Dist. S.C., against Rodenberg's, a corporation, and Ernest A. Rodenberg, Sr., president, Charleston Heights, S.C.

ALLEGED VIOLATIONS: Between 3-27-61 and 10-19-61, while quantities of rice were being held for sale after shipment in interstate commerce, the defendants caused the article to be held in a building that was accessible to rodents and insects and to be exposed to contamination by rodents and insects, which acts resulted in the article being adulterated.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 10-9-62. Each defendant was fined \$1,000.

28539. Rice and grits. (F.D.C. No. 45675. S. Nos. 56-410/12 P.)

INFORMATION FILED: 7-5-61, S. Dist. Fla., against Chitty & Co., Inc., Jacksonville, Fla.

ALLEGED VIOLATIONS: Between 1-19-59 and 3-6-59, while quantities of rice and grits were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building accessible to rodents and birds and to be exposed to contamination by rodents and birds which acts resulted in the articles becoming adulterated.

CHARGE: 402(a)(3)—contained rodent excreta pellets and rodent urine (rice); and rodent excreta pellets, rodent urine, and rodent hairs (grits); and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 9-7-62. \$2,000 fine.

28540. Rice. (F.D.C. No. 48228. S. Nos. 3-004/6 V.)

QUANTITY: 10 100-lb. bags, 15 bales, each containing 20 3-lb. bags, and 7 bales, each containing 24 1-lb. bags, at Dunn, N.C.

SHIPPED: Between 11-9-61 and 7-27-62, from Stuttgart, Ark.

LIBELED: 10-17-62, E. Dist. N.C.

CHARGE: 402(a)(3)—contained insects and insect larvae while held for sale.

DISPOSITION: 12-6-62. Default—converted to use as animal feed.

28541. Rice and flour. (F.D.C. No. 47072. S. Nos. 44-039 P, 44-043 P, 57-178 P, 87-802/3 P, 46-224 R, 1-518/19 T.)

INFORMATION FILED: 6-14-62, E. Dist. S.C., against Massey-Hite Grocery Co., Inc., and Louis C. Hite, president.

ALLEGED VIOLATIONS: Between 9-24-58 and 9-22-61, while quantities of rice and flour were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building that was accessible to rodents, insects, and birds, and caused the article to be exposed to contamination by rodents, insects, and birds, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—contained insects, cockroach excreta, rodent urine, rodent excreta pellets, rodent hairs and bird excreta; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 12-11-62. Corporation—\$500 fine; individual—\$400 fine.

28542. Rice, nonfat dry milk, and bakery mixes. (F.D.C. No. 47844. S. Nos. 25-979 T, 25-986 T, 25-988/9 T.)

INFORMATION FILED: 8-31-62, N. Dist. Ohio, against Fortieth Street Warehouse, Inc., Cleveland, Ohio.

ALLEGED VIOLATIONS: Between 7-10-61 and 1-15-62, the defendant caused quantities of rice, nonfat dry milk, and bakery mixes, while held for sale after shipment in interstate commerce, to be held in a building accessible to rodents, and to be exposed to contamination by rodents, which act resulted in the articles being adulterated.

CHARGE: 402(a) (3)—contained rodent urine, rodent excreta pellets, and rodent hair; and 402(a) (4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 11-30-62. \$4,000 fine.

28543. Barley. (F.D.C. No. 48025. S. Nos. 78-860 T, 79-298 T.)

QUANTITY: 104,650 lbs. at Minneapolis, Minn.

SHIPPED: 8-14-62, from McIntosh, S. Dak., by McIntosh Equity Exchange.

LIBELED: 9-12-62, Dist. Minn.

CHARGE: 402(a) (2) (B)—the article was a raw agricultural commodity and, when shipped, contained a pesticide chemical, namely, a mercurial compound, which was unsafe within the meaning of 408(a) since no tolerance or exemption from the requirement of a tolerance for the pesticide chemical on barley had been prescribed by regulations.

DISPOSITION: 9-14-62. Consent—claimed by McIntosh Equity Exchange and reconditioned; 14,810 lbs. destroyed.

28544. Quick-cooking oats. (F.D.C. No. 46693. S. Nos. 55-747 R, 55-937 R.)

INFORMATION FILED: 3-7-62, W. Dist. Wash., against Carnation Co., a corporation, t/a Albers Milling Co., Seattle, Wash., and F. Bradley MacKenzie, director of quantity control, William R. Lacy, production superintendent, and James A. White, chief chemist.

SHIPPED: 3-8-61 and 3-10-61, from Washington to Oregon and Idaho.

LABEL IN PART: (Sacks) "Albers Peacock Quick Oats."

CHARGE: 402(a) (3)—contained insects and insect fragments; and 402(a) (4)—prepared, packed, and held under insanitary conditions.

PLEA: Nolo contendere by the corporation to 2 counts of the information and by the individuals to 1 count.

DISPOSITION: 7-9-62. Corporation—\$2,000 fine; each individual—\$100 fine.

28545. Unpopped popcorn. (F.D.C. No. 48206. S. No. 1-880 T.)

QUANTITY: 133 50-lb. bags, at Atlanta, Ga.

SHIPPED: 4-2-62, from Murray, Ky., by Ellis Popcorn Co.

LABEL IN PART: (Bag) "Calloway County's Best Hybrid Yellow Popcorn Guaranteed to Pop Ellis Popcorn Co. Murray Ky."

LIBELED: 10-1-62, N. Dist. Ga.

CHARGE: 402(a) (3)—contained insect larvae, insect pupae, and rodent excreta, when shipped and while held for sale.

DISPOSITION: 12-7-62. Default—destruction.

28546. Unpopped popcorn. (F.D.C. No. 47756. S. No. 22-303 T.)

QUANTITY: 205 100-lb. bags at Salt Lake City, Utah.

SHIPPED: 11-13-61, from Atchison, Kans.

LIBELED: 6-19-62, Dist. Utah.

CHARGE: 402(a)(3)—contained rodent-gnawed kernels and rodent urine while held for sale.

DISPOSITION: 8-28-62. Consent—claimed by F. A. Mangelsdorf Seed Co., of Atchison, Kans. Segregated; 53 100-lb. bags destroyed.

28547. Pancake mix. (F.D.C. No. 48133. S. No. 88-617 T.)

QUANTITY: 27 cases, each containing 24 8-oz. pkgs., at Atlanta, Ga.

SHIPPED: 4-10-61, from Miami, Fla.

LIBELED: 9-28-62, N. Dist. Ga.

CHARGE: 402(a)(3)—contained insects, insect larvae, and insect parts while held for sale.

DISPOSITION: 11-1-62. Default—destruction.

DAIRY PRODUCTS

BUTTER

28548. Butter. (F.D.C. No. 43766. S. No. 71-381 R.)

QUANTITY: 41 64-lb. boxes, at Minneapolis, Minn.

SHIPPED: 7-12-61, from Kenmare, N. Dak., by Farmers Union Creamery.

LIBELED: 8-17-61, Dist. Minn.

CHARGE: 402(a)(2)(A)—when shipped, the article consisted in part of an added deleterious substance, by reason of the presence of dieldrin, which was unsafe within the meaning of 406.

DISPOSITION: 9-18-61. Consent—claimed by Farmers Union Creamery, and released under bond to claimant at the warehouse of the consignee for reprocessing. Thereafter, 24 boxes of the article were reported to be missing from the possession of the consignee as the agent of the claimant. On 12-18-61, 17 boxes of the article were destroyed under the supervision of the Food and Drug Administration. Subsequently, the Government moved that the court declare forfeiture of the claimant's bond on the grounds that the terms of the bond were violated in that the claimant had failed to retain intact the entire lot, had sold or disposed of part of the butter under seizure in a manner contrary to the Act, and had disposed of a part of such butter without a written release, and before free access to the article had been had, by a representative of the Department of Health, Education, and Welfare. On 9-17-62, the court ordered that the \$2,500 bond be forfeited.

28549. Butter. (F.D.C. No. 43753. S. No. 8-727 R.)

QUANTITY: 15 cases, each containing 32 1-lb. prints, at Troy, N.Y.

SHIPPED: 8-13-60, from Omaha, Nebr., by Harding Creamery.

LABEL IN PART: "Beverly Farms Brand Butter, 1 Pound Net, Packed by Sugar Creek Creamery Company, Division National Dairy Products Corporation, Danville, Illinois."

LIBELED: 8-29-60, N. Dist. N.Y.

CHARGE: 402(a)(3)—when shipped, the article contained decomposed butter.
DISPOSITION: 9-26-60. Consent—claimed by Sugar Creek Creamery Co., a Division of National Dairy Products Corp., and converted into oil.

28550. Butter. (F.D.C. No. 47640. S. No. 74-091 T.)

QUANTITY: 20 60-lb. ctns., at New York, N.Y.

SHIPPED: 8-30-62, from Monticello, Iowa, by Consolidated Shippers, Worthington, Iowa.

LABEL IN PART: "It's Better With . . . Hotel Bar Butter Creamery Butter Keep Refrigerated."

LIBELED: 9-19-62, S. Dist. N.Y.

CHARGE: 402(b)(2)—when shipped, a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: 10-2-62. Consent—claimed by Frederick F. Lowenfels & Son, New York, N.Y., and reworked.

28551. Butter. (F.D.C. No. 47642. S. No. 91-351 T.)

QUANTITY: 59 64-lb. ctns., at Sioux City, Iowa.

SHIPPED: 8-27-62, from Randolph, Nebr., by Randolph Creamery.

LABEL IN PART: "Creamery Butter Keep Refrigerated."

LIBELED: 9-14-62, N. Dist. Iowa.

CHARGE: 402(b)(2)—when shipped, a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: 10-17-62. Consent—claimed by Randolph Creamery and converted into animal feed.

28552. Butter. (F.D.C. No. 47336. S. Nos. 10-034/7 T, 10-040 T.)

INFORMATION FILED: 8-14-62, W. Dist. Pa., against Bishoff Waynesburg Creamery Co., a corporation, Waynesburg, Pa., and Avery Bishoff, Jr., secretary-treasurer.

ALLEGED VIOLATIONS: On 2-15-61, the defendants caused to be given, to a firm engaged in the business of shipping butter into interstate commerce, a guaranty to the effect that no article shipped by the corporation under the guaranty would be adulterated. Between 11-1-61 and 11-16-61, the defendants caused quantities of an adulterated food, the labeling of which represented the food to be butter, to be shipped to the holder of the guaranty.

CHARGE: 402(b)(1)—a valuable constituent of the article, milk fat, had been in part omitted; and 402(b)(2)—a product which contained less than 80 percent by weight of milk fat was substituted for butter.

PLEA: Nolo contendere.

DISPOSITION: 12-28-62. Corporation—\$2,500 fine, plus costs; individual—\$5 fine.

CHEESE

28553. Grated American cheese products. (F.D.C. No. 46826. S. No. 34-326 T.)

QUANTITY: 8 cases, each containing 12 2-oz. boxes, at Minneapolis, Minn.

SHIPPED: 10-28-61, from Chicago, Ill., by Kraft Foods.

LABEL IN PART: (Box) "Kraft Grated American Cheese Product Sharp Cheddar Flavor 2 Ozs. Net Wt. * * * Kraft Foods * * * Div. National Dairy Products Corp."

RESULTS OF INVESTIGATION: The statement of the ingredients was printed in small type in silver colored ink on a metallic-surfaced paper, both having a sheen which made it difficult to read the print.

LIBELED: 12-5-61, Dist. Minn.

CHARGE: 403(f)—when shipped, the information required by 403(i)(2) to appear on the label, namely, a statement of the ingredients, was not prominently placed on the label of the article with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: On 3-23-62, Kraft Foods, Div. of National Dairy Products Corp., filed an answer and denied that the article was misbranded. On 11-26-62, the claimant having withdrawn its answer, the court entered a default decree and the article was destroyed.

MISCELLANEOUS DAIRY PRODUCTS

28554. Cream. (F.D.C. No. 45681. S. Nos. 15-942 R, 15-946 R, 15-949 R, 15-952/3 R, 15-956 R, 16-099/100 R.)

INFORMATION FILED: 7-19-61, S. Dist. Ind., against Sugar Creek Creamery, a Div. of National Dairy Products Corp., Evansville, Ind.

SHIPPED: Between 7-30-60 and 8-18-60, from Kentucky and Illinois to Indiana.

CHARGE: 402(a)(3)—consisted in part of decomposed cream.

DISPOSITION: The defendant filed a motion for bill of particulars on 11-28-61, which was answered in part by the Government. Subsequently the defendant filed motions for further pretrial discovery on 1-15-62 and a request for further answers to the bill of particulars on 1-18-62, which were denied. On 6-27-62, the defendant pleaded guilty to the 8-count information and was fined \$4,000.

28555. Evaporated milk. (F.D.C. No. 47614. S. No. 53-359 T.)

QUANTITY: 56 cases, each containing 48 cans, at Milwaukie, Oreg.

SHIPPED: 2-14-62 and 2-28-62, from Mount Vernon, Wash., by Carnation Co.

LABEL IN PART: (Can) "Special Morning Vitamin D Content Increased Evaporated Milk * * * Net Wt. 14½ Ozs. * * * Dist. by Morning Milk Company Salt Lake City, Utah * * * Vitamin D 25 U.S.P. units added per fluid ounce. Each reconstituted quart * * * provides 400 U.S.P. units."

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 40 percent of the declared amount of vitamin D. The article failed to conform to the definition and standard of identity for evaporated milk with vitamin D increased which requires not less than 25 U.S.P. units of vitamin D per fluid ounce.

LIBELED: On or about 5-25-62, Dist. Oreg.

CHARGE: 402(b)(1)—when shipped, the valuable constituent, namely, vitamin D, had been in part omitted or abstracted from the article; 403(a)—the label statements "Vitamin D 25 U.S.P. units added per fluid ounce" and "Each reconstituted quart * * * provides 400 U.S.P. Units" were false and misleading as applied to a product containing less than the declared amount of vitamin D; 403(g)(1)—the article failed to conform to the definition and standard of identity for vitamin D content increased evaporated milk.

DISPOSITION: 8-9-62. Default—delivered to a Federal institution for use as livestock feed.

28556. Nonfat dry milk. (F.D.C. No. 47769. S. No. 45-790 T.)

QUANTITY: 500 100-lb. bags, at Aurora, Mo.

SHIPPED: 5-16-62, from Stillwater, Minn., by Forrest Nutting Co.

LABEL IN PART: (Bag) "Spray Process Nonfat Dry Milk Mfg. Mar. 62 * * *
Sioux Valley Milk Producers Assn., Sioux Falls, S. Dak."

LIBELED: On or about 6-29-62, W. Dist. Mo.

CHARGE: 402(a)(2)(C)—when shipped, the article contained a food additive, namely, inorganic bromides, which was unsafe within the meaning of 409 in that it and its use or intended use was not in conformity with a regulation or exemption.

DISPOSITION: On or about 12-5-62. Default—destruction.

EGGS

28557. Frozen eggs. (F.D.C. No. 43055. S. Nos. 9-274 P, 9-783 P.)

INFORMATION FILED: 5-29-59, S. Dist. Ohio, against Poultry Producers Association, a corporation, Versailles, Ohio, and Ralph M. Crooks, manager.

SHIPPED: Between 6-23-58 and 10-1-58, from Ohio to Pennsylvania.

LABEL IN PART: (Can) "Frozen Whole Eggs 30 Pounds Net Packed By Poultry Producers Assn. Versailles, Ohio."

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

PLEA: Guilty.

DISPOSITION: 5-29-59. \$250 fine, plus costs, assessed against the defendants jointly.

28558. Frozen eggs. (F.D.C. No. 44480. S. Nos. 21-884 R, 21-887 R.)

QUANTITY: 1,006 30-lb. cans at Detroit, Mich.

SHIPPED: 5-2-60 and 5-16-60, from Chicago, Ill., by Gross Egg Co.

LABEL IN PART: (Tag) "Distributed by Gross Egg Co.—Chicago 10 Whole Eggs—Egg Breaking Establishments Iowa and Illinois."

LIBELED: 6-6-60, E. Dist. Mich.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 8-10-60. Consent—claimed by Gross Egg Co., and Albert Lerner, t/a Sunland Eggs Farms, Chicago, Ill., and denatured.

28559. Frozen eggs. (F.D.C. No. 44305. S. Nos. 32-948 P, 32-951 P.)

INDICTMENT RETURNED: 7-19-60, Dist. N.J., against L. Meyer & Co., Inc., Jersey City, N.J., Morris Meyer, president, Samuel Greenbaum, secretary-treasurer, and Irving Edelstein, foreman.

SHIPPED: 2-4-59 and 2-16-59, from New Jersey to New York.

LABEL IN PART: "WHOLE EGGS 30 Lbs. Net L. Meyer & Co., Inc., Jersey City, N.J."

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

PLEA: Not guilty.

DISPOSITION: On 3-4-61, the defendants filed a motion for a bill of particulars which was granted in part and denied in part, and on 4-11-61, filed a motion

to dismiss the action which was denied. On 8-27-62, the defendants filed a motion to suppress evidence which was also denied. The case came for trial before the court and jury on 9-25-62, and on 10-23-62, the jury returned a verdict of guilty as to the corporation. The individuals were acquitted. Upon proof that the corporation had been convicted of a prior violation the court assessed a fine of \$20,000.

28560. Frozen eggs. (F.D.C. No. 47617. S. No. 69-636 T.)

QUANTITY: 150 30-lb. cans, at Washington, D.C.

SHIPPED: 5-1-62, from Rock Island, Ill., by Rock Island Product Co.

LABEL IN PART: (Can) "Frozen Whole Eggs Packed by Rock Island Product Co., Rock Island, Illinois."

LIBELED: 5-25-62, Dist. Columbia.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 7-9-62. Consent—claimed by Rock Island Product Co. Segregated; 69 cans destroyed.

28561. Frozen eggs. (F.D.C. No. 47731. S. No. 43-946 T.)

QUANTITY: 77 30-lb. unlabeled cans, at Trenton, N.J.

SHIPPED: 6-25-62, from Silverstreet, S.C., by Waldrop Bros.

LIBELED: 7-16-62, Dist. N.J.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped; 403(e)—the article failed to bear a label containing (1) the name and address of the manufacturer, packer, or distributor and (2) an accurate statement of the quantity of contents; and 403(i)(1)—the article failed to bear a label containing the common or usual name of the food.

DISPOSITION: 9-20-62. Consent—claimed by Southern Breakfast Eggs, Inc., Newberry, S.C. Segregated; 6 cans denatured.

28562. Frozen egg whites. (F.D.C. No. 48269. S. No. 39-364 V.)

QUANTITY: 50 30-lb. cans, at Brooklyn, N.Y.

SHIPPED: 9-14-62, from Newfield, N.J.

LIBELED: 11-9-62, E. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed egg whites while held for sale.

DISPOSITION: 12-18-62. Default—destruction.

FISH AND SHELLFISH

28563. Frozen haddock fillets. (F.D.C. No. 47706. S. Nos. 8-591 T, 62-211 T.)

QUANTITY: 83 ctns., 5 10-lb. boxes each, of frozen fish fillets, individually wrapped, at Boston, Mass.

SHIPPED: These fillets were from fish caught by the fishing vessel "Patty & Jean" in the waters of the Atlantic Ocean outside the limits of Massachusetts, and landed at Boston Fish Pier on or about 6-14-62.

LIBELED: 7-5-62, Dist. Mass.

CHARGE: 402(a)(3)—contained decomposed fish fillets when shipped.

DISPOSITION: 9-18-62. Default—delivered to a public institution for use as animal feed.

28564. Dressed whiting. (F.D.C. No. 43318. S. No. 63-716 P.)

QUANTITY: 59 50-lb. cases, each containing 10 5-lb. ctns., at Roanoke, Va.

SHIPPED: 6-15-59, from Gloucester, Mass., by Empire Fish Co., Inc.

LABEL IN PART: (Ctn.) "Fres-shore Dressed Whole Whiting Pan Ready Net Wt. 5 Lbs. Thoroughly Cleaned Ready to Cook and Serve * * * Distributed by the Kroger Co."

RESULTS OF INVESTIGATION: Examination showed that the article consisted in part of decomposed fish and fish with viscera only partly removed.

LIBELED: 7-29-59, W. Dist. Va.

CHARGE: 402(a)(3)—when shipped, the article contained decomposed fish; 402(b)(2)—partially eviscerated whiting had been substituted for "Dressed Whole Whiting" which the article was represented to be; 402(b)(4)—partially eviscerated whiting had been packed with the article so as to make it appear to be dressed whiting, which was better and of greater value than the article; and 403(a)—the label statement "Dressed * * * Pan Ready * * * Thoroughly Cleaned Ready to Cook and Serve" was false and misleading as applied to a product which consisted in part of fish only partly eviscerated.

DISPOSITION: 9-2-59. Default—destruction.

28565. Canned tuna. (F.D.C. No. 47960. S. Nos. 7-968/9 T.)

QUANTITY: 44 cases (Lily of the Valley brand) and 74 cases (Mrs. Lane's brand) at Newport, R.I., each case containing 48 cans.

SHIPPED: 5-26-62, from Seattle, Wash., by Whitney & Co.

LABEL IN PART: (Can) "Lily of the Valley Solid Pack White Tuna Fancy * * * Packed in Japan * * * Net Weight 7 Ounces Distributed by Lily of the Valley Food Corp., Newport, R.I." and "Mrs. Lane's Brand White Tuna Chunks and Flakes Contents 5¾ Oz. Avoir. * * * Foodland, Inc., Distributors, Cleveland, Ohio."

RESULTS OF INVESTIGATION: Examination showed that the 44-case lot consisted of canned flaked tunafish and that the 74-case lot consisted of canned grated tunafish. The distributor's name and address on the label of the 74-case lot was in small block letters obscured by a background of red and green lines.

LIBELED: 8-15-62, Dist. R.I.

CHARGE: 44-case lot, 403(a)—when shipped, the label statement "Solid Pack White Tuna" and vignette depicting solid pack tunafish, were false and misleading as applied to a product consisting of canned flaked tunafish.

74-case lot, 403(a)—when shipped, the label statement "White Tuna Chunks and Flakes" was false and misleading as applied to a product consisting of grated tunafish; 403(f)—the information required to appear on the label under 403(e)(1), namely, the name and address of the manufacturer, packer or distributor, was not prominently placed on the label as compared with other words and statements on the label as to render such information likely to be read by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 9-11-62. Default—delivered to a charitable institution.

28566. Canned tuna. (F.D.C. No. 47906. S. No. 73-876 T.)

QUANTITY: 79 cases, 6 4-lb. 2½-oz. cans each, at New York, N.Y.

SHIPPED: 5-10-62, from St. Louis, Mo. This was a return shipment.

LIBELED: 8-1-62, S. Dist. N.Y.

CHARGE: 402(a) (3)—while held for sale, the article was unfit for food by reason of having a disagreeable odor and taste.

DISPOSITION: 8-31-62. Consent—claimed by Mondial Co., Inc., New York, N.Y. Segregated; 143 cans destroyed.

28567. Frozen minced clams. (F.D.C. No. 48058. S. No. 76-878 T.)

QUANTITY: 48 cases, each containing 10 5-lb. ctns., at Miami, Fla.

SHIPPED: 7-24-62, from Greenport, Long Island, N.Y., by Shelter Island Oyster Co.

LABEL IN PART: (Ctn.) "Minced Clams" and "The Shelter Island Oyster Co., L.I., N.Y."

LIBELED: On or about 9-13-62, S. Dist. Fla.

CHARGE: 402(a) (3)—contained *E. coli* when shipped.

DISPOSITION: 10-8-62. Default—destruction.

FRUITS AND VEGETABLES

CANNED FRUIT

28568. Maraschino cherries. (F.D.C. No. 43900. S. No. 5-636 P.)

QUANTITY: 8 cases, each containing 4 1-gal. jars, at Washington, D.C.

SHIPPED: 9-30-59, from North East, Pa., by Ohio Fruit Products Co., Inc.

LABEL IN PART: (Jar) "Sunshine Brand Maraschino Cherries * * * Packed by Ohio Fruit Products Co., Inc., North East, Pa."

LIBELED: 11-12-59, Dist. Columbia.

CHARGE: 402(a) (3)—contained insects and insect fragments; and 402(a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 5-16-60. Consent—destruction.

28569. Canned boysenberries. (F.D.C. No. 47538. S. No. 58-946 T.)

QUANTITY: 61 cases, each containing 24 1-lb. cans, at Kansas City, Mo.

SHIPPED: 7-11-61, from Stilwell, Okla., by Stilwell Canning Co.

LABEL IN PART: (Can) "Can-D-Pak Brand Boysenberries in Heavy Syrup * * * Packed by Stilwell Canning Co. Stilwell, Okla."

RESULTS OF INVESTIGATION: Examination showed that the article was packed in light syrup.

LIBELED: 6-7-62, W. Dist. Mo.

CHARGE: 403(g) (2)—when shipped, the article failed to bear, as required by the definition and standard of identity for canned boysenberries, the name of the optional packing medium present in the article, since the label bore the statement "In Heavy Syrup," whereas the article was packed in a medium designated "Light Syrup."

DISPOSITION: 8-20-62. Consent—claimed by Stilwell Canning Co. and relabeled.

DRIED FRUITS

28570. Prunes. (F.D.C. No. 47010. S. Nos. 27-449/50 T.)

QUANTITY: 51 30-lb. cases at Kansas City, Mo.

SHIPPED: Between 4-12-61 and 11-22-61, from San Jose, Calif.

LIBELED: On or about 2-6-62, W. Dist. Mo.

CHARGE: 402(a)(3)—contained insect larvae, insect excreta, and webbing while held for sale.

DISPOSITION: 3-28-62. Default—delivered to a public institution for use as animal feed.

28571. Dried fruits. (F.D.C. No. 46656. S. Nos. 57-925 R, 57-930/1 R.)

INFORMATION FILED: 12-20-61, S. Dist. Fla., against Natural Foods Co., Inc., Zephyrhills, Fla., and Alan I. Chenkin, director of maintenance and production, and Gilbert W. Chenkin, director of purchasing and sales.

SHIPPED: Between 2-28-61 and 3-19-61, from Florida to Georgia and South Carolina.

LABEL IN PART: (Top label) "Zephyr Brand Delicious Dried Fruits Distributed by Chenkins Natural Foods Company Zephyr Hills, Fla."; (bottom label) "Zephyr Brand 1 Pound Net FRUIT LOAF A Healthy Confection Ready to Eat [or "FRUIT COMPOTE 32-oz. Net"] Natural Foods Company, Inc. Zephyr Hills, Fla."

CHARGE: 402(a)(3)—contained whole insects, insect parts, and insect cast skins when shipped.

PLEA: Guilty.

DISPOSITION: 12-21-62. Corporation—\$300 fine; each individual—\$300 fine.

VEGETABLES AND VEGETABLE PRODUCTS

28572. Dried beans, rice, flour, sugar, cornmeal, lima beans, salt, bakery supplies, and animal and poultry feeds. (Inj. No. 364.)

COMPLAINT FOR INJUNCTION FILED: 3-8-60, N. Dist. Tex., against International Exterminator Corp., and Harlan K. Baker, president.

CHARGE: The complaint alleged that the defendants were engaged in the business of providing exterminator and pest-control services for establishments such as warehouses, mills, and dryers which store and sell articles such as dried beans, rice, flour, sugar, cornmeal, lima beans, salt, bakery supplies, and animal and poultry feeds; that the defendants' services were provided in Houston, Alvin, Brownwood, and elsewhere in Texas by agents working under contract with International Exterminator Corporation and under the supervision of Harlan K. Baker; that the defendants received a percentage of the monies received by such agents for the performance of such services; that in providing such services, the defendants caused quantities of a water solution of a poisonous rodenticide, sodium fluoroacetate, commonly known as Compound 1080, to be placed in and about buildings in Houston, Alvin, Brownwood, and elsewhere in Texas, under conditions whereby foods in such buildings may have become contaminated with this poison which has no known antidote.

It was alleged further that the defendants' agents prepared such water solutions of Compound 1080 from powdered Compound 1080 provided by the defendants; and that the act of causing water solutions of Compound 1080 to be placed in such buildings resulted in the foods being adulterated within the meaning of Section 402(a)(4) of the Act in that the foods were being held under insanitary conditions whereby they might have been rendered injurious to health; and that the insanitary conditions consisted of the placement of uncovered paper bait cups containing a water solution of Compound 1080 in and about such buildings and in close proximity to such foods.

It was alleged further that the defendants violated the Act by causing a water solution of Compound 1080 to be placed in and about such buildings, whereby the foods in such buildings may have been rendered injurious to health prior to being introduced or delivered for introduction into interstate commerce.

It was alleged further that the defendants also violated the Act by causing a water solution of Compound 1080 to be placed in and about such buildings while the foods in such buildings were being held for sale after shipment in interstate commerce, whereby the foods in such buildings may have been rendered injurious to health.

The complaint alleged also that the defendants had been warned, on several occasions, of the inherent dangers of using water solutions of Compound 1080 without proper precautions, and of the inherent dangers in the careless use of Compound 1080, and that the defendants had failed to correct their careless use of Compound 1080.

DISPOSITION: On 3-30-60, the defendants filed a motion to dismiss, alleging that the complaint failed to state a cause of action.

On 10-29-60, the court heard argument upon the motion and entered an order dismissing the complaint for injunction.

On 9-8-61, the United States Court of Appeals for the Fifth Circuit rendered the following opinion (294 F. 2d 270) :

JONES, Circuit Judge: "The United States brought suit against International Exterminator Corporation and Harlan K. Baker, its president, asserting violations of the Federal Food, Drug and Cosmetic Act, 21 U.S.C.A. § 301 et seq., and praying for injunctive relief. The district court sustained a motion to dismiss on the ground that the complaint fails to state a cause of action upon which relief can be granted. The United States has appealed.

"The complaint which the district court held insufficient alleged that the defendants operate an exterminator and pest-control service for establishments such as warehouses, mills and dryers which store and sell foods such as beans, rice, flour, sugar, meal, salt, bakery supplies and also animal and poultry feed. In so doing, it is averred, the defendants are causing quantities of a poisonous liquid known as Compound 1080 to be placed in the establishments in uncovered paper bait cups in close proximity to the foods. This, the complaint alleged, results in the foods being adulterated within the meaning of the Act 'because of being held under insanitary conditions whereby they may have been rendered injurious to health prior to being introduced or delivered for introduction into interstate commerce.' Then the United States alleges that the acts of the defendants in placing the poisonous compound in the buildings violates the Act 'in that said acts are done while said foods in said buildings are being held for sale after shipment in interstate commerce and result in said foods being adulterated within the meaning of . . . the Act because of being held under insanitary conditions whereby they may have been rendered injurious to health.' The complaint charges that the defendants have been warned but fail to change their method of placing the poison.

"In a Rule 60(b)(1) motion for relief from the order of dismissal, the Government states that the dismissal was based on a finding that the language 'may have been rendered injurious to health' was insufficient and the correct test was the 'reasonable probability' that it would have been rendered injurious to health. It is this question to which the Government devotes its initial brief. In their brief the defendants assert that the complaint does not show the interstate character of the transactions so as to bring them under the Act. The defendants also assert that it is not shown by the complaint that the defendants committed any acts which are violative of the Federal Pure Food, Drug and Cosmetic Act.

"The complaint will be held sufficient if it shows that the plaintiff would be entitled to relief under any state of facts which could be proved in support of the claim alleged. *United States v. Goodman*, 5th Cir. 1961, 287 F. 2d 871;

Mitchell v. E-Z Way Towers, Inc., 5th Cir. 1959, 269 F. 2d 126; *Bruce Construction Corp. v. United States*, 5th Cir. 1957, 242 F. 2d 873.

"The defendants urged before the district court that the complaint failed to show that there was a reasonable probability that food would be rendered injurious to health. The Government contended that the test is whether there is a reasonable possibility that food would be rendered injurious to health. The authorities cited by the Government seem to sustain its position. *Golden Grain Macaroni Co. v. United States*, 9th Cir. 1953, 209 F. 2d 166; *Berger v. United States*, 8th Cir. 1952, 200 F. 2d 818. The defendants do not, on appeal, distinguish between probability and possibility of contamination, but instead assert that neither is alleged. Here the defendants rely upon the construction in *Berger v. United States, supra*, that the statutory phrase 'which may render such articles injurious to health' contemplates a condition which would, with reasonable possibility, result in contamination. The defendants say that the absence of an allegation that the defendants created a condition of reasonable possibility of contamination rendered the pleading bad and required dismissal. It is to be noted though that the rule announced in *Berger* is that the condition of reasonable possibility of contamination must be proved, not that it must be pleaded. *Berger* was a criminal case and it appears that the information used the statutory 'whereby they may have become contaminated' language. A motion attacking the sufficiency of the information as not stating facts sufficient to constitute an offense was overruled. The correctness of this ruling was not raised on appeal. We are here only concerned with the sufficiency of the pleading, and not with the scope and reach of the statute as applied to such facts as may be developed by pretrial procedures or by evidence adduced at a trial. The pleading was sufficient.

"There seems to us no question but that the complaint brings the case within the interstate commerce requirements of the Act. The statutory purpose 'was to safeguard the consumer by applying the Act to articles from the moment of their introduction into interstate commerce all the way to the moment of their delivery to the ultimate consumer.' *United States v. Sullivan*, 332 U.S. 689, 696, 69 S. Ct. 331, 92 L. Ed. 297. See *McDermott v. Wisconsin*, 228 U.S. 115, 33 S. Ct. 431, 57 L. Ed. 754, 47 L.R.A. N.S. 984.

"The motion to dismiss was erroneously granted. The order of dismissal will be reversed and the cause remanded for further proceedings."

On 11-9-61, written interrogatories were filed by the Government; and subsequently, the defendants answered 43 of the questions and objected to 4 of the 47 questions propounded by the interrogatories.

Trial of the matter took place on November 27, 28, and 29, 1961, before the court and a jury. On 1-3-62, the court signed the following judgment of permanent injunction:

BREWSTER, *District Judge*:

JUDGMENT OF PERMANENT INJUNCTION

"On this the 27th day of November, 1961, came on to be heard the above entitled and numbered cause and came the plaintiff, by and through the United States Attorney for the Northern District of Texas, and came the defendants, by their attorney, and both plaintiff and defendants having announced ready for trial, came a jury of twelve citizens, and both the plaintiff and defendants presented their evidence and after the close of such evidence and argument by counsel, and after the Court gave his charge to said jury, the jury retired to consider its verdict, following which the jury returned and delivered its verdict in open court, finding in favor of the plaintiff, and the Court finding said verdict proper in all respects and being of the opinion that judgment should be entered thereon.

"The nature of this proceeding being an action in equity and the verdict of the jury being only advisory to the Court, the Court thereupon having heard the evidence and argument of counsel is also of the opinion that judgment should be rendered for plaintiff.

"It is therefore ORDERED, ADJUDGED and DECREED as follows:

I.

"That the Court has jurisdiction of the subject matter herein and of all persons or parties hereto and the complaint states a cause of action against the defendants under the Federal Food, Drug, and Cosmetic Act.

II.

"That the defendants, International Exterminator Corporation, a corporation, and Harlan K. Baker, an individual, and each and all of their officers, agents, servants, employees, representatives, and all and any persons in active concert or participation with them or any of them who receive actual notice of this decree by personal service or otherwise, be and they are hereby perpetually enjoined and restrained under the provisions of 21 U.S.C. 332(a) from placing or causing to be placed in any building serviced by defendants any quantity of the rodenticide liquid Compound 1080 while such building is being used for the storage of foods held prior to shipment in interstate commerce and while held for sale after shipment in interstate commerce unless and until:

(1) The owner, manager or other person in active charge of the buildings serviced is informed that the rodenticide liquid Compound 1080 is being used, is advised of its highly toxic nature and that it must not be removed from the premises, and is further advised of the necessity for protecting stored foods from contamination by it;

(2) Liquid Compound 1080 is dispensed only in protected bait boxes (except as provided in (3) below) and said bait boxes are constructed so as to provide for the use of bait containers which cannot be overturned, or to provide a leak-proof receptacle for any liquid Compound 1080 which might be spilled or to provide for the blotting of liquid Compound 1080 which might be spilled;

(3) When work or other activity is not being carried on in said buildings, small quantities (approximately one-half ounce) of a liquid solution of liquid Compound 1080 may be used in open paper cups at floor level in said buildings, provided that such cups are firmly attached to the surface upon which they rest;

(4) Compound 1080 is prepared by the defendants and their officers, agents, servants, employees, representatives, and all persons in active concert or participation with them or any of them at their place of business and is colored with 0.5% Nigrosine black dye;

(5) Responsibility for control of Compound 1080 in use in such buildings is vested in one person of established reliability, and this person is fully informed as to the acceptable procedures for use of Compound 1080 and as to the potential hazards of careless use.

III.

"That the defendants, International Exterminator Corporation and Harlan K. Baker, shall give written notice of the provisions of this decree to each and all of their present and future officers, agents, servants, employees, representatives, and all persons now or in the future in active concert or participation with them or any of them who assist or participate in the performance of pest-control services.

"That the plaintiff, the United States of America, have and recover from the defendants all costs of this action, as taxed herein, and that the plaintiff have execution therefor."

Subsequently, the court made the following findings of fact and conclusions of law:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

* * * * *

"1. The defendant, International Exterminator Corporation is a corporation organized and existing under the laws of the State of Texas, and has its principal place of business at 155 Magnolia Street, Fort Worth, Texas, within the jurisdiction of this Court. The defendant, Harlan K. Baker, an individual, resides within the jurisdiction of this Court.

"2. The defendant, Harlan K. Baker, is president of the defendant International Exterminator Corporation; and is the person in charge of the opera-

tion of the business. He determines the business policies of the corporation.

"3. The defendants, International Exterminator Corporation and Harlan K. Baker, have been and are now engaged in the business of providing and causing to be provided exterminator and pest-control services to establishments, such as warehouses, mills, and dryers, throughout the State of Texas.

"4. Some of the establishments serviced by defendants store, sell and process foods such as dried beans, rice, flour, sugar, cornmeal, lima beans, salt, bakery supplies, and animal and poultry feeds, both prior to shipment of such foods in interstate commerce and subsequent to receipt of such foods in interstate commerce. Some of such establishments store and sell such foods after receipt of such foods in interstate commerce, but do not hold such foods prior to shipment in interstate commerce. Some of such establishments store, sell and process such foods prior to shipment in interstate commerce, but do not receive such foods in interstate commerce.

"5. The services of the defendants are provided to such establishments by agents of the defendants, working under contract with defendant, International Exterminator Corporation. Defendants receive a percentage of the monies received by such agents for the performance of such services.

"6. In providing the aforesaid exterminator and pest-control services to the said establishments, the said agents sometimes use a water solution of a poisonous rodenticide known as Compound 1080.

"7. The Court submitted this case to the jury on the following special issues:

SPECIAL ISSUE NO. 1: Do you find from a preponderance of the evidence that, unless prevented by court action from so doing, the defendant, International Exterminator Corporation, through its officers, agents or authorized representatives, will in reasonable probability in the future engage in the practice of using, of causing the use of, of participating in the use of, or of being responsible for the use of, Compound 1080 in establishments where at least some of the food which may be there located is being held for sale prior to or after shipment in interstate commerce, in such manner that the Compound may in reasonable possibility contaminate any of the food in such establishments?

The form of your answer will be either "YES" or "NO."

SPECIAL ISSUE NO. 2: Do you find from a preponderance of the evidence that, unless prevented by court action from so doing, the defendant, Harlan K. Baker, acting either by himself or through others, will in reasonable probability in the future engage in the practice of using, or causing the use of, of participating in the use of, or of being responsible for the use of, Compound 1080 in establishments where at least some of the food which may be there located is being held for sale prior to or after shipment in interstate commerce, in such manner that the Compound may in reasonable possibility contaminate any of the food in such establishments?

The form of your answer will be either "YES" or "NO."

"8. The jury answered each of said special issues "YES."

"9. The plaintiff and the defendants agreed to the submission of this cause to the jury on special issues; there were no objections to the issues as submitted.

"10. The findings of the jury in answer to said special issues are supported by a preponderance of the evidence.

"11. The Court adopts the findings of the jury and incorporates them as part of its own findings of fact.

CONCLUSIONS OF LAW

"1. This Court has jurisdiction of the parties and of the subject matter.

"2. The plaintiff is entitled to the relief granted by the judgment of this Court entered herein on January 3, 1962, to which judgment reference is here made under the provisions of 21 U.S.C. 332(a)."

28573. Dried Great Northern beans, dried pinto beans, and dried black-eyed beans. (F.D.C. No. 42750. S. Nos. 22-380/2 P.)

QUANTITY: 50 100-lb. bags of Great Northern beans; 1 100-lb. bag of pinto beans; and 8 100-lb. bags of black-eyed beans, at Kansas City, Kans., in possession of Nelson's Super Merchandise Mart.

SHIPPED: Between 9-11-58 and 10-10-58, from Gering, Nebr., and Kansas City, Mo.

LIBELED: 1-5-59, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent urine (Great Northern and pinto beans); and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-10-59. Consent—claimed by Walter H. Nelson. Segregated; 2,142 lbs. denatured for use as animal feed.

28574. Dried pinto beans. (F.D.C. No. 48076. S. No. 90-841 T.)

QUANTITY: 24 100-lb. bags, at Greenville, Tex.

SHIPPED: On an unknown date, from Montana or Wyoming.

LIBELED: On or about 10-4-62, N. Dist. Tex.

CHARGE: 402(a)(3)—while held for sale, the article contained insects, insect larvae, and insect excreta.

DISPOSITION: 12-4-62. Default—delivered to a public institution for use as animal feed.

28575. Canned black-eyed peas. (F.D.C. No. 47994. S. No. 71-299 T.)

QUANTITY: 70 cases, each containing 48 15-oz. cans, at Oklahoma City, Okla.

SHIPPED: 5-30-62 and 6-18-62, from Athens, Tex., by Athens Canning Co.

LABEL IN PART: (Can) "HOMEFOLK BRAND GREEN FRESH SHELLLED BLACK EYE PEAS packed by Athens Canning Company, Athens, Texas."

RESULTS OF INVESTIGATION: Examination showed that the article had an off-odor and flavor.

LIBELED: 8-23-62, W. Dist. Okla.

CHARGE: 402(a)(3)—the article was unfit for food when shipped.

DISPOSITION: 8-29-62. Default—delivered to a public institution for use as animal feed.

28576. Cabbage. (F.D.C. No. 48347. S. No. 33-485 V.)

QUANTITY: 140 50-lb. bags, at Chariton, Iowa.

SHIPPED: 10-23-62, from Hayward, Minn., to Kansas City, Mo., by Noland Bros., and reshipped to Chariton, Iowa.

LABEL IN PART: (Bag) "New Cabbage Produce of U.S.A."

LIBELED: 10-30-62, S. Dist. Iowa.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, namely, endrin, which was unsafe within the meaning of 408(a), since the quantity of such pesticide chemical on cabbage was not within the limits of the tolerance prescribed by regulations.

DISPOSITION: On 11-8-62, Chariton Wholesale Grocery Co. of Chariton, Iowa, filed a claim and answer, and consented to the destruction of the article. On 11-9-62, the Government moved to dismiss the action and showed to the court that the claimant had consented to the immediate destruction of the article, and that the article had been destroyed. On 11-13-62, the court dismissed the action.

28577. Potatoes. (F.D.C. No. 48038. S. No. 82-545 T.)

QUANTITY: 900 50-lb. bags, at San Antonio, Tex.

SHIPPED: 9-11-62, from Winchester, Wash., by Sun-Glo Producers, Inc.

LABEL IN PART: (Bag) "US No. 1 Farm Fare Potatoes Packed by Sun-Glo Producers, Inc., Winchester, Wash."

LIBELED: 9-20-62, W. Dist. Tex.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained pesticide chemicals, namely, aldrin and dieldrin, which were unsafe within the meaning of 408(a), since the quantity of such pesticide chemicals was not within the limits of the tolerance prescribed by regulations.

DISPOSITION: 10-2-62. Default—destruction.

28578. Potatoes. (F.D.C. No. 48296. S. Nos. 52-481/2 V.)

QUANTITY: 900 100-lb. bags, at Los Angeles, Calif.

SHIPPED: 9-17-62, from Glade, Wash., by Andrus & Roberts Produce Co.

LABEL IN PART: (Bag) "Washington U.S. No. 1 County Fair POTATOES Packed By Andrus & Roberts Produce Co., Sunnyside-Glade-Cornell, Wash."

LIBELED: 10-8-62, S. Dist. Calif.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained pesticide chemicals, namely, aldrin and dieldrin, which were unsafe within the meaning of 408(a), since the quantity of such pesticide chemicals on potatoes was not within the limits of the tolerance prescribed by regulations.

DISPOSITION: 10-25-62. Default—destruction.

28579. Potatoes. (F.D.C. No. 48043. S. No. 53-776 T.)

QUANTITY: 49 100-lb. bags at Estherville, Iowa.

SHIPPED: 9-4-62, from Ontario, Oreg., by Ore-Ida Foods, Inc.

LABEL IN PART: (Bag) "Ore-Ida Brand Potatoes U.S. No. 1 packed by Ore-Ida Foods, Inc., Ontario, Oregon."

LIBELED: 9-26-62, N. Dist. Iowa.

CHARGE: 402(a)(2)(B)—the article was a raw agricultural commodity and, when shipped, contained pesticide chemicals, namely, aldrin and dieldrin, which were unsafe within the meaning of 408(a) since the quantity of the chemicals on the article was not within the limits of the tolerance in effect.

DISPOSITION: 10-26-62. Default—destruction.

28580. Potatoes. (F.D.C. No. 48273. S. No. 53-276 V.)

QUANTITY: 450 100-lb. bags, at Chicago, Ill.

SHIPPED: 10-19-62, from Othello, Wash., by P. J. Taggares Produce Co.

LABEL IN PART: "US NO. 1 Big T Washington Potatoes Shippers P. J. Taggares Produce Co. Prosser & Othello, Wash."

LIBELED: On or about 11-6-62, N. Dist. Ill.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained pesticide chemicals, namely, aldrin and dieldrin, which were unsafe within the meaning of 408(a), since the quantity of such pesticide chemicals on potatoes was not within the limits of the tolerances prescribed by regulations.

DISPOSITION: 11-9-62. Default—destruction.

28581. Potatoes. (F.D.C. No. 48297. S. No. 52-605 V.)

QUANTITY: 89 bales, each containing 5 10-lb. bags, at Seattle, Wash.

SHIPPED: 9-15-62, from Payette, Idaho, by Lyn Josephson Produce.

LABEL IN PART: (Bag) "U.S. No. 1 Gilt Edge Idaho-Oregon Potatoes 10 lbs. net Packed by L. S. Taube and Company, Idaho Falls, Idaho"; (bales) "W. B. Savage Produce Co. Kimberly, Idaho," "Stork Brand Packed in Idaho by W. B. Whiteley, Idaho Falls-Twin Falls-Caldwell, Idaho," "Premium Brand Packed in Idaho by W. B. Whiteley."

LIBELED: 10-3-62, W. Dist. Wash.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained pesticide chemicals, namely, aldrin and dieldrin, which were unsafe within the meaning of 408(a), since the quantity of such pesticide chemicals on potatoes was not within the limits of the tolerance prescribed by regulations.

DISPOSITION: 11-26-62. Default—destruction.

28582. Potatoes. (F.D.C. No. 48207. S. No. 77-081 T.)

QUANTITY: 190 100-lb. bags, at Charlotte, N.C.

SHIPPED: 9-13-62, from Payette, Idaho, by L. S. Taube & Co.

LABEL IN PART: (Bag) "U.S. No. 1 Taube's Queen Anne Idaho Potatoes Packed by L. S. Taube & Co. Idaho Falls, Idaho Sales Office, Kansas City, Mo."

LIBELED: 10-9-62, W. Dist. N.C.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, namely, dieldrin, which was unsafe within the meaning of 408(a) since the quantity of such pesticide chemical on potatoes was not within the limits of the tolerance prescribed by regulations.

DISPOSITION: 12-12-62. Default—destruction.

TOMATOES AND TOMATO PRODUCTS

28583. Canned tomatoes. (F.D.C. No. 47586. S. Nos. 68-602 T, 68-614 T.)

QUANTITY: 1,996 cases, each containing 24 1-lb. cans, at Melrose Park, Ill.

SHIPPED: 2-14-62, from Snow Hill, Md., by Albert W. Sisk & Son.

LABEL IN PART: (Can) "Bluebrook Tomatoes * * * Distributed by Jewel Tea Co., Inc., Chicago, Ill."

LIBELED: 5-7-62, N. Dist. Ill.

CHARGE: 402(a)(3)—contained insects, *Drosophila* fly eggs, and maggots when shipped.

DISPOSITION: 8-14-62. Consent—claimed by Albert W. Sisk & Son, Preston, Md. Segregated; 467 cases destroyed.

28584. Canned tomatoes. (F.D.C. No. 48214. S. No. 69-125 T.)

QUANTITY: 739 cases, each containing 48 10-oz. cans, at Melrose Park, Ill.

SHIPPED: 8-22-62, from Union City, Ind., by Jaqua Canning Co.

LABEL IN PART: (Can) "Bluebrook Tomatoes Contents 10 Oz. Avd. Distributed by Jewel Tea Co., Inc., Chicago, Ill."

LIBELED: 10-3-62, N. Dist. Ill.

CHARGE: 403(h)(1)—when shipped, the article fell below the standard of quality for canned tomatoes, since the article contained tomato peel, per pound of canned tomatoes in the container, which covered an area of more than

one square inch, and its label failed to bear a statement that it fell below such standard.

DISPOSITION: 11-2-62. Default—destruction.

28585. Canned tomatoes. (F.D.C. No. 45205. S. Nos. 74-877 P, 97-164 P, 97-166 P, 97-358 P, 97-362 P.)

INFORMATION FILED: 3-28-61, S. Dist. Ind., against Fettig Canning Corp., Elwood, Ind., and Lawrence M. Fettig, vice president.

SHIPPED: Between 11-12-59 and 12-31-59, to Milwaukee, Wis., and Chicago, Ill., from Elwood, Ind.

LABEL IN PART: (Can) "Sultana Brand Vine Ripened Tomatoes Net Wt. 1 Lb. The Great Atlantic & Pacific Tea Company New York, N.Y. Distributor"; "A&P Brand Vine Ripened Tomatoes Net Wt. 1 Lb. 3 oz. The Great Atlantic & Pacific Tea Company New York, N.Y. Distributor."

CHARGE: 402(a)(3)—contained fly eggs, maggots, and decomposed tomato material when shipped.

PLEA: Guilty.

DISPOSITION: 12-6-62. Corporation—\$1,000 fine, plus costs; individual—\$100 fine.

28586. Tomato bouillon. (F.D.C. No. 47760. S. No. 44-468 T.)

QUANTITY: 3,500 cases, 12 cans each, at Thornton, Calif.

SHIPPED: 5-2-62 and 5-18-62, from Hanover, Pa., by D. E. Winebrenner Co., Inc.

LABEL IN PART: (Can) "Low in Calories, High in Nourishment Dinner Cocktail Tomato Bouillon Appetizer * * * 46 fluid ounces—packed by D. E. Winebrenner Co., Inc., Hanover, Pennsylvania."

LIBELED: 6-18-62, N. Dist. Calif.

CHARGE: 403(a)—when shipped, the label of the article bore false and misleading representations that the article was low in calories in an amount which was high in nourishment; and that it was a complete, high quality protein food in balanced proportions to provide the daily protein need of the body for growth, health, and vitality.

DISPOSITION: 7-11-62. Consent—claimed by Thornton Canning Co., Thornton, Calif., and relabeled.

NUTS*

28587. Shelled pecans. (F.D.C. No. 44090. S. No. 75-731 P.)

QUANTITY: 124 50-lb. ctns., at St. Louis, Mo.

SHIPPED: 1-15-60, from Albany, Ga.

LIBELED: 3-15-60, E. Dist. Mo.

CHARGE: 402(a)(3)—contained moldy nuts while held for sale.

DISPOSITION: 3-29-60. Consent—claimed by R. E. Funsten Co., St. Louis, Mo., and reconditioned.

28588. Shelled pecans. (F.D.C. No. 47330. S. Nos. 1-753 P, 15-521 P, 17-815 P, 26-058/9 P, 86-703 P, 63-717 R, 93-040 R, 97-576 R.)

*See also Nos. 28504, 28514.

INFORMATION FILED: 8-10-62; E. Dist. S.C., against Frederick J. D. Felder, t/a Orangeburg Pecan Co., Orangeburg, S.C., and Marion H. Felder, general manager.

SHIPPED: Between 7-25-58 and 7-5-61, from Orangeburg, S.C., to Cincinnati, Ohio, Greensboro, N.C., Duluth, Minn., Pittsburgh and Scranton, Pa., and Louisville, Ky.

LABEL IN PART: (Ctn.) "FANCY MAMMOTH PIECES [or "FANCY MEDIUM PIECES," or "FANCY SMALL PIECES," or "FANCY MEAL," or "FANCY BLEND HALVES," or "FANCY SEEDLING HALVES"] PECANWAY NUT MEATS * * * ORANGEBURG PECAN CO." and "PECANWAY NUT MEATS [or "PECAN NUT MEATS MEDIUM PIECES"] 'THE WORLD'S FINEST NUTS' ORANGEBURG PECAN CO."

CHARGE: 402(a)(3)—contained live insects, insect larvae, insect parts, insect cast skins, insect webbing, insect excreta, rodent hair, and *E. coli*; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 11-12-62. Each defendant fined \$250.

28589. Shelled pecans, cornmeal, shelled almonds, and cocoa. (F.D.C. No. 47338. S. Nos. 21-243 T, 21-246 T, 22-947 T, 22-949 T.)

INFORMATION FILED: 8-21-62, Dist. Colo., against Westman Commission Co., a corporation, Denver, Colo., and Robert L. Weil, president.

ALLEGED VIOLATIONS: Between 9-9-61 and 1-4-62, while quantities of pecans, cornmeal, almonds, and cocoa were being held for sale after shipment in interstate commerce, the defendant caused the articles to be held in a building that was accessible to birds, and to be exposed to contamination by birds, which acts resulted in the articles becoming adulterated.

CHARGE: 402(a)(3)—contained bird excreta; and 402(a)(4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 10-5-62. Corporation—\$800 fine; Weil—\$400 fine.

28590. Shelled pecans (2 seizure actions). (F.D.C. No. 47501, 47506. S. Nos. 32-369 T, 58-056 T.)

QUANTITY: 350 30-lb. cases, at Vernon, Calif., and 100 30-lb. boxes, at Mariemont, Ohio.

SHIPPED: 4-19-62 and 4-24-62, from St. Louis, Mo., by Funsten Nut Co.

LABEL IN PART: (Case) "Funsten's Twirl Pecan Mix R. E. Funsten Co. St. Louis, Mo."; (box) "Funsten's Pecan Pieces Funsten Nut Company, St. Louis."

LIBELED: 5-23-62, S. Dist. Calif.; 5-24-62, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained *E. coli* when shipped.

DISPOSITION: 6-14-62 and 6-13-62. Consent—claimed by Funsten Nut Co., Div. of Pet Milk Co. Reprocessing of the pecan meats seized at Vernon, Calif., proved to be unsatisfactory and those pecan meats were denatured. The pecan meats seized at Mariemont, Ohio, were reprocessed, resulting in the release of 1,614 lbs. as satisfactory.

28591. Unshelled pecans. (F.D.C. No. 47451. S. Nos. 68-549/50 T.)

QUANTITY: 65,826 lbs. at Chicago, Ill.

SHIPPED: 1-6-62, from Atmore, Ala., by M. Benenson.

LIBELED: 4-12-62, N. Dist. Ill.

CHARGE: 402(a)(3)—contained rancid, moldy, shriveled nuts and empty shells when shipped.

DISPOSITION: 5-9-62. Consent—claimed by J. Masino & Sons, Chicago, Ill. Segregated; 46,086 lbs. destroyed.

28592. Shelled peanuts, sesame flour, corn puffs, and corn chips. (F.D.C. No. 47082. S. Nos. 2-415 T, 2-417 T, 2-419/20 T, 2-422 T.)

INFORMATION FILED: 5-10-62, N. Dist. Ga., against Filler Products, Inc., Atlanta, Ga.

ALLEGED VIOLATIONS: Between 12-19-60 and 9-21-61, while quantities of peanuts and sesame flour were being held for sale after shipment in interstate commerce, the defendant caused them to be held in a building accessible to houseflies and rodents and caused them to be exposed to contamination by houseflies and rodents, which acts resulted in the articles being adulterated. In addition, on 9-22-61, the defendant caused quantities of corn puffs and corn chips which were adulterated to be shipped to Kentucky and Illinois.

LABEL IN PART: (Pkg.) "Cheez-Trix Oven Baked Corn Puffs Net Wt. 7 Oz." and "Filler's Taste Thrillers Net Wt. $\frac{3}{4}$ Ozs. (or $1\frac{3}{4}$ Ozs.) Tor Tees Corn Chips Mfg. by Filler Products Inc. Atlanta, Ga."

CHARGE: 402(a)(3)—the peanuts and flour contained rodent urine, rodent hairs, and rodent excreta pellets; and 402(a)(4)—held under insanitary conditions. 402(a)(4)—when shipped, the corn puffs and corn chips had been prepared and packed under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 7-25-62. \$200 fine.

28593. Roasted peanuts. (F.D.C. No. 47199. S. No. 54-216 T.)

QUANTITY: 54 cases, each containing 12 14-oz. jars, and 95 cases, each containing 12 9½-oz. jars, at Chicago, Ill.

SHIPPED: 2-14-62, from Detroit, Mich., by Abner Wolf, Inc.

LABEL IN PART: (Jar) "Planters Dry Roasted Peanuts Less Calories No Oils or Sugar Used In Processing Mfg. by Planters Peanuts A Division of Standard Brands Inc., New York, N.Y."

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 40 percent fat and approximately 30 percent protein.

LIBELED: 3-6-62, N. Dist. Ill.

CHARGE: 403(a)—when shipped, the label statements, "Less Calories" and "No Oils or Sugar Used In Processing" represented and suggested that the caloric content of the article was significantly different from roasted peanuts generally, and that the article was of unusual value for weight reduction, which statements were false and misleading since they were contrary to fact.

DISPOSITION: On 3-23-62, Standard Brands, Inc., filed a claim to the article as owner, and, thereafter, an answer denying that the article was misbranded. Subsequently, the Government served written interrogatories upon the claimant. On 10-10-62, a consent decree of condemnation was entered, the claimant having consented to the entry of a decree without any adjudication as to any issue of fact or law, and the claimant having represented to the court that the

article was fit for human consumption, that the article was not then being marketed by the claimant with the labeling which was challenged in the libel, that such labeling was no longer used by the claimant, and that the claimant believed no useful purpose would be served by contesting the charges of the libel. The article was delivered to a charitable institution.

OILS AND FATS

28594. Edible oil. (F.D.C. No. 42875. S. Nos. 57-933/4 P.)

QUANTITY: 9 cases, each containing 6 1-gal. cans, at New York, N.Y.

SHIPPED: Prior to 10-22-58, from Reggio Calabria, Italy, by Raffineria Bruzia.

LABEL IN PART: (Can) "Product of Greece HERMES * * * Pure Imported Olive Oil * * * Imported-packed-distributed by Standard Importing Co., Inc., New York, N.Y." and "Nicholas Lekas Corp. Imported 100% Pure Olive Oil * * * Nicholas Lekas Corp. packers and distributors, New York, N.Y. Athens, Greece."

RESULTS OF INVESTIGATION: Examination showed that the article was tea seed oil containing little or no olive oil. The article was prepared from a product in bulk drums represented as refined olive oil which was shipped as described above.

LIBELED: 3-19-59, S. Dist. N.Y.

CHARGE: 402(b) (2)—tea seed oil had been substituted wholly or in part for olive oil when shipped.

DISPOSITION: 5-22-59. Default—destruction.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

28595. Vitamin-Mineral capsules. (F.D.C. No. 43456. S. No. 55-962 P.)

QUANTITY: 808 unlabeled btls., in cases of 12 btls. each, at Kansas City, Mo.

SHIPPED: 9-27-58, from Long Island City, N.Y.

LABEL IN PART: (Case) "100 capsules Lot No. 38495 Vitamin-Mineral Capsules Each Capsule contains:—4.0 Mgm. Vitamin B₁—2 Mgm. Vitamin B₁₂."

RESULTS OF INVESTIGATION: Analysis showed that the article contained approximately 75 percent of the declared amount of vitamin B₁ and approximately 57 percent of vitamin B₁₂.

LIBELED: On or about 9-28-59, W. Dist. Mo.

CHARGE: 402(b) (1)—while held for sale, the valuable constituents, vitamin B₁ and Vitamin B₁₂, had been in part omitted or abstracted from the article; 403(a)—the label statement "Each Capsule contains—4.0 Mgm. Vitamin B₁—2 Mgm. Vitamin B₁₂" was false and misleading.

DISPOSITION: 1-12-60. Consent—claimed by NYSCO Laboratories, Inc., Long Island City, N.Y., and relabeled.

28596. Cellepacbin-Regular (dietary supplement). (F.D.C. No. 47955. S. No. 62-407 T.)

QUANTITY: 31 btls. at Stamford, Conn.

SHIPPED: 4-18-62, from Mount Vernon, N.Y., by Arthrins, Inc.

LABEL IN PART: (Btl.) "Contents 180 Capsules Cellepacbin-Regular A Dietary Supplement * * * 6 Capsules Contain: * * * Folic Acid * * * .4 mg. * * *

Treatment Level: 3 or 4 Capsules before or during meals (9 to 12 daily) * * * Arthrins, Inc., Mount Vernon, New York."

LIBELED: On or about 8-17-62, Dist. Conn.

CHARGE: 402(a)(2)(C)—when shipped, the article contained a food additive, folic acid, which was unsafe within the meaning of 409 since it and its use or intended use was not in conformity with a regulation or exemption in effect pursuant to 409.

DISPOSITION: 10-8-62. Default—destruction.

28597. Vitamin-mineral dietary supplement. (F.D.C. No. 47915. S. Nos. 70-596/8 T.)

QUANTITY: 26,000 tablets in 46 drums, 32,600 tablets in 2 drums, 38,000 tablets in 3 drums, 111 labeled ctns. and 29 unlabeled ctns., each containing 12 100-tablet unlabeled vials and 70 unlabeled boxes, each containing 300 28-tablet unlabeled plastic bags, at Minneapolis, Minn., in possession of Minnesota Pharmaceutical Laboratories, Inc.

SHIPPED On various dates during 1958, from St. Louis, Mo.

LABEL IN PART: (Drum) "Vikings Senior Vitamin-Mineral Dietary Supplement * * * Manufactured for: Minnesota Pharmaceutical Laboratories, Inc., Minneapolis 1, Minnesota"; (ctn.) "Vikings Senior Vitamin-Mineral Dietary Supplement."

ACCOMPANYING LABELING: Undetermined quantities of repack labels.

RESULTS OF INVESTIGATION: The article in the vials and bags was repacked from the bulk drums. Analysis showed that the article contained approximately 78 percent of the declared amount of vitamin B₁ and approximately 40 percent of the declared amount of vitamin D.

LIBELED: 8-1-62, Dist. Minn.

CHARGE: 402(b)(1)—while held for sale, valuable constituents, vitamins B₁ and D, had been omitted or abstracted from the article; 403(a)—the label statements (drum and ctn.) "Vitamin D 200 USP units" and "Thiamine HCL 0.75 mg." were false and misleading; and 403(e)—the article (29-ctn. and 70-box lots) failed to bear a label containing (1) the name and address of the manufacturer, packer or distributor; and (2) an accurate statement of the quantity of contents.

DISPOSITION: 8-23-62. Consent—claimed by Minnesota Pharmaceutical Laboratories, Inc.; repacked and relabeled.

28598. Multiple vitamin tablets. (F.D.C. No. 48284. S. No. 89-240 T.)

QUANTITY: 408 30-tablet btls., at Grand Rapids, Mich.

SHIPPED: Between 6-13-61 and 8-21-61, from Skokie, Ill.

LABEL IN PART: (Btl.) "Therapeutic Multiple Vitamins Each table contains: * * * Vitamin B₁₂ * * * 5 mcg."

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 74 percent of the declared amount of vitamin B₁₂.

LIBELED: 11-9-62, W. Dist. Mich.

CHARGE: 402(b)(1)—while held for sale, the valuable constituent, namely, vitamin B₁₂, was wholly or in part abstracted therefrom; 403(a)—the label statement "Vitamin B₁₂ * * * 5 mcg." was false and misleading.

DISPOSITION: 11-23-62. Consent—destruction.

28599. C-V lemon-flavored vitamin C tablets. (F.D.C. No. 48113. S. No. 63-552 T.)

QUANTITY: 696 individually ctnd. 100-tablet btls. and 62 individually ctnd. 250-table btls., at St. Paul, Minn., in possession of Vitamin Council, Inc.

SHIPPED: 2-28-62, from St. Louis, Mo.

LABEL IN PART: (Btl. and ctn.) "Lemon Tabs * * * CV Fresh Delicious Lemon Flavored Vitamin C 100 Mg. Ascorbic Acid per Lemon Tab * * * Distributed by Vitamin Council Incorporated."

RESULTS OF INVESTIGATION: The tablets had been shipped in bulk and had been repacked by the dealer into bottles and cartons.

LIBELED: 9-21-62, Dist. Minn.

CHARGE: 403(a)—while held for sale, the labeling of the article contained false and misleading representations that the article was adequate and effective to build strong body cells and blood vessels; develop gums, teeth and bones; to relieve thirst; heal wounds; prevent heat prostration; promote the bodies' response to stress; and that the American diet was generally deficient in vitamin C.

DISPOSITION: 10-26-62. Consent—claimed by Vitamin Council, Inc., and relabeled.

28600. Ketovite tablets. (F.D.C. No. 47592. S. Nos. 59-213/14 T.)

QUANTITY: 16 200-tablet btls., 13 400-tablet btls., 8 500-tablet btls., and 5 1000-tablet btls., at Kansas City, Kans.

SHIPPED: Between 2-12-62 and 3-12-62, from Cedar Rapids, Iowa, by Professional Foods.

LABEL IN PART: (Btl.) "Ketovite * * * A Dietary Supplement, made from Liver and other Meats (Desiccated) * * * Vitamins and Minerals from Food Sources. Directions * * * Distributed by Professional Foods, Cedar Rapids, Iowa."

RESULTS OF INVESTIGATION: The article was shipped in bulk and repacked by the dealer and labeled with labels furnished by the shipper.

LIBELED: 5-14-62, Dist. Kans.

CHARGE: 403(a)—when shipped and while held for sale, the label of the article contained false and misleading statements that the article was of significant value for special dietary supplementation by reason of the presence therein of liver, enzymes, protein, and other substances; and 403(j)—the article purported to be and was represented as a food for special dietary use by reason of its vitamin and mineral content and its label failed to bear, as required by regulations, a statement of the proportion of the minimum daily requirement for vitamins A, B₁, B₂, C, D, and niacinamide, and the minerals, calcium, phosphorus, iron, and iodine supplied by such food when consumed in a specified quantity during a period of one day.

DISPOSITION: 8-20-62. Default—delivered to a public institution.

INDEX TO NOTICES OF JUDGMENT F.N.J. NOS. 28501 TO 28600

PRODUCTS

	N.J. No.		N.J. No.
Almonds, shelled	28589	Fruits and vegetables	28568-28586
Animal feed	¹ 28572	fruit, canned	28568, 28569
Bakery mixes	28542	dried	28570, 28571
supplies	¹ 28572	tomatoes and tomato prod-	
Barley	28543	ucts	28583-28586
Beans, black-eyed, dried	28573	vegetables and vegetable prod-	
dried	¹ 28572	ucts	28572-28582
Great Northern, dried	28573	Great Northern beans, dried	28573
lima, dried	¹ 28572	Grits	28539
pinto, dried	28573, 28574	Haddock fillets, frozen	28563
Beer	28501	Ketovite tablets	28600
Beverages and beverage materi-		Lima beans	¹ 28572
als	⁴ 28501-28503	Macaroni and noodle products	28522-
Black-eyed beans, dried	28573		28527
peas, canned	28575	Maraschino cherries	28568
Boysenberries, canned	28569	Milk, evaporated	28555
Butter	28548-28552	nonfat, dry	28542, 28556
C-V lemon-flavored vitamin C		Mix(es), bakery	28542
tablets	28599	pancake	28547
Cabbage	28576	Nonfat dry milk	28542, 28556
Cellepacbin-Regular (dietary		Noodles. See Macaroni and noo-	
supplement)	28596	dle products.	
Cereals and cereal products	28504-	Nuts	⁴ 28587-28593
	28547	Oats, quick-cooking	28544
Cheese, American, grated	⁴ 28553	Oils and fats	28594
Cherries, maraschino	28568	Pancake mix	28547
Clams, minced, frozen	28567	Peanuts, roasted	⁴ 28593
Cocoa	28589	shelled	28504, 28592
Corn chips	28592	unshelled	28514
flour	28521	Peas, black-eyed, canned	28575
puffs	28592	Pecans, shelled	28587-28590
Cornmeal	28504-28507,	unshelled	28591
	28514, 28519, ¹ 28572, 28589	Pepsi-Cola	28502
Cream	² 28554	Pinto beans, dried	28573, 28574
Dairy products	² 28548-28556	Popcorn, unpopped	28545, 28546
Egg(s), frozen	² 28557-28561	Potatoes	28577-28582
whites, frozen	28562	Poultry feed	¹ 28572
Evaporated milk	28555	Prunes	28570
Fish and shellfish	28563-28567	Rice	28537-28542, ¹ 28572
Flour	28508-28521,	Salt	¹ 28572
	28541, ¹ 28572	Sesame flour	28592
corn	28521	Shellfish. See Fish and shellfish.	
sesame	28592		

¹ (28572) Prosecution contested. Contains opinion of the court, judgment of permanent injunction, and findings of fact and conclusions of law.

² (28554, 28559) Prosecution contested.

⁴ (28503, 28553, 28593) Seizure contested.

	N.J. No.		N.J. No.
Soda, bicarbonate of-----	28513	Vegetables. <i>See</i> Fruits and vege-	
Spaghetti. <i>See</i> Macaroni and		tables.	
noodle products.		Vermicelli -----	28524
Sugar -----	28518, ¹ 28572	Vitamin, mineral, and other prod-	
Tea -----	⁴ 28503	ucts of special dietary signifi-	
Tomato(es), canned-----	28583-28585	cance -----	28595-28600
bouillon -----	28586	Wheat -----	³ 28528-28536
Tuna, canned-----	28565, 28566	Whiting, dressed-----	28564

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N.J. No.		N.J. No.
A & P, Great, Tea Co.:		Chenkin, G. W.:	
canned tomatoes-----	28585	dried fruits-----	28571
Affiliated Food Stores, Inc.:		Chenkins Natural Foods Co.:	
cornmeal -----	28507	dried fruits-----	28571
Albers Milling Co. <i>See</i> Carna-		Chitty & Co., Inc.:	
tion Co.		rice and grits-----	28539
American Beauty Macaroni Co.:		Chowan Milling Co., Inc.:	
egg noodles-----	28525	cornmeal -----	28505
Andrus & Roberts Produce Co.:		Coe, R. H.:	
potatoes -----	28578	Pepsi-Cola -----	28502
Arthrins, Inc.:		Colorado Milling & Elevator Co.:	
Cellepacbin-Regular (dietary		wheat -----	³ 28528
supplement) -----	28596	Consolidated Shippers:	
Athens Canning Co.:		butter -----	28550
canned black-eyed peas-----	28575	Cook, J. L.:	
Bagnas, V. J.:		wheat -----	³ 28528
macaroni -----	28522	Cooke, A. M.:	
Baker, H. K.:		corn flour-----	28521
dried beans, rice, flour, sugar,		Crooks, R. M.:	
cornmeal, lima beans, salt,		frozen eggs-----	28557
bakery supplies, and animal		Dial Wholesale Grocer Co.:	
and poultry feeds-----	¹ 28572	flour -----	28512
Barzellone, Vito:		Eagle Food Centers, Inc.:	
cornmeal and peanuts-----	28504	flour and sugar-----	28518
Benenson, M.:		Edelstein, Irving:	
unshelled pecans-----	28591	frozen eggs-----	² 28559
Bishoff, Avery, Jr.:		Ellis Popcorn Co.:	
butter -----	28552	unpopped popcorn-----	28545
Bishoff Waynesburg Creamery		El Paso Macaroni Co., Inc.:	
Co.:		vermicelli and macaroni-----	28524
butter -----	28552	Empire Fish Co., Inc.:	
Bruzia, Raffineria:		dressed whiting-----	28564
edible oil-----	28594	Farmer Elevator Co.:	
Carnation Co.:		wheat -----	28532
evaporated milk-----	28555	Farmers Union Creamery:	
quick-cooking oats-----	28544	butter -----	28548
Chenkin, A. I.:		Federal North Iowa Grain Co.:	
dried fruits-----	28571	wheat -----	28533

¹ (28572) Prosecution contested. Contains opinion of the court, judgment of permanent injunction, and findings of fact and conclusions of law.
² (28554, 28559) Prosecution contested.
³ (28528) Injunction issued.
⁴ (28503, 28553, 28593) Seizure contested.

Felder, F. J. D.:		Jewel Tea Co., Inc.:	
shelled pecans-----	28588	canned tomatoes-----	28583, 28584
Felder, M. H.:		Josephson, Lyn, Produce:	
shelled pecans-----	28588	potatoes -----	28581
Fettig Canning Corp.:		Kell, H. V., Co.:	
canned tomatoes-----	28585	flour -----	28511
Fettig, L. M.:		Kimbell-Paris Co.:	
canned tomatoes-----	28585	flour -----	28510
Filler Products, Inc.:		Kraft Foods, Div. of National	
shelled peanuts, sesame flour,		Dairy Products Corp.:	
corn puffs, and corn chips--	28592	grated American cheese prod-	
Foodland, Inc.:		uct -----	⁴ 28553
canned tuna-----	28565	Kroger Co.:	
Forrest City Grocery Co.:		dressed whiting-----	28564
flour -----	28517	Lacy, W. R.:	
Forrest Nutting Co.:		quick-cooking oats-----	28544
nonfat dry milk-----	28556	La Rosa, V., & Sons, Inc.:	
Fortieth Street Warehouse, Inc.:		spaghetti -----	28527
rice, nonfat dry milk, and		Lekas, Nicholas, Corp.:	
bakery mixes-----	28542	edible oil-----	28594
Funsten Nut Co.:		Lily of the Valley Food Corp.:	
shelled pecans-----	28590	canned tuna-----	28565
Giacomo, S. D., & Co.:		Lipton, Thos. J., Inc.:	
cornmeal and peanuts-----	28504	tea -----	⁴ 28503
Greenbaum, Samuel:		McClusky Farmers Elevator:	
frozen eggs-----	² 28559	wheat -----	28536
Griffin Grocery Co., Inc.:		McIntosh Equity Exchange:	
flour and bicarbonate of soda--	28513	barley -----	28543
Gross Egg Co.:		MacKenzie, F. B.:	
frozen eggs-----	28558	quick-cooking oats-----	28544
Hansen, Lester, Elevator Co.:		Major Italian Foods Co., Inc.:	
wheat -----	28529	macaroni products and egg noo-	
Happyvale Flour Mills. <i>See</i> Grif-		dles -----	28523
fin Grocery Co., Inc.		Massey-Hite Grocery Co., Inc.:	
Harding Creamery:		rice and flour-----	28541
butter -----	28549	Merchants Co., Inc.:	
Higgins, Frank H., Co.:		flour and cornmeal-----	28519
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Hite, L. C.:		macaroni products and egg noo-	
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International E x t e r m i n a t o r		Meyer, L., & Co., Inc.:	
Corp.:		frozen eggs-----	² 28559
dried beans, rice, flour, sugar,		Meyer, Morris:	
cornmeal, lima beans, salt,		frozen eggs-----	² 28559
bakery supplies, animal and		Millsap, M. M.:	
poultry feeds-----	¹ 28572	Pepsi-Cola -----	28502
Jaqua Canning Co.:		Minnesota Macaroni Co.:	
canned tomatoes-----	28584	macaroni -----	28522

¹ (28572) Prosecution contested. Contains opinion of the court, judgment of permanent injunction, and findings of fact and conclusions of law.

² (28554, 28559) Prosecution contested.

⁴ (28503, 28553, 28593) Seizure contested.

	N.J. No.		N.J. No.
Minnesota Pharmaceutical Laboratories, Inc.:		Raymond-Hadley Corp.:	
vitamin-mineral dietary supplement -----	28597	flour -----	28520
Morning Milk Co.:		Robinson Grain Co.:	
evaporated milk -----	28555	wheat -----	28535
National Dairy Products Corp.		Rock Island Product Co.:	
See Kraft Foods. See also		frozen eggs -----	28560
Sugar Creek Creamery.		Rodenberg, E. A., Sr.:	
National Food Stores of Louisiana, Inc.:		rice -----	28538
flour, cornmeal, and peanuts -----	28514	Rodenberg's:	
Natural Foods Co., Inc.:		rice -----	28538
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Nelson's Super Merchandise Mart:		flour -----	28520
dried Great Northern beans,		Savage, W. B., Produce Co.:	
dried pinto beans, and dried		potatoes -----	28581
black-eyed beans -----	28573	Schlitz, Jos., Brewing Co., Inc.:	
Noland Bros.:		beer -----	28501
cabbage -----	28576	Shelter Island Oyster Co.:	
Ohio Fruit Products Co., Inc.:		frozen minced clams -----	28567
maraschino cherries -----	28568	Sioux Valley Milk Producers Association:	
Orangeburg Pecan Co. See		nonfat dry milk -----	28556
Felder, F.J.D.		Sisk, A. W., & Son:	
shelled pecans -----	28588	canned tomatoes -----	28583
Ore-Ida Foods, Inc.:		Standard Brands, Inc.:	
potatoes -----	28579	roasted peanuts -----	⁴ 28593
Orleans Storage Co., Inc.:		Standard Importing Co., Inc.:	
corn flour -----	28521	edible oil -----	28594
Patty & Jean (boat):		Stephens, H. M.:	
frozen haddock fillets -----	28563	flour -----	28508
Peavey Occident Elevator:		Stephens Grocer Co.:	
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Pepsi-Cola Bottlers of St. Louis, Inc.:		Stilwell Canning Co.:	
Pepsi-Cola -----	28502	canned boysenberries -----	28569
Pepsi-Cola Co.:		Sugar Creek Creamery Co., Div.	
Pepsi-Cola -----	28502	of National Dairy Products Corp.:	
Planters Peanuts:		butter -----	28549
roasted peanuts -----	⁴ 28593	cream -----	² 28554
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Poultry Producers Association:		Sun-Glo Producers, Inc.:	
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Powers, J. B.:		Taggares, P. J., Produce Co.:	
flour and cornmeal -----	28519	potatoes -----	28580
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Ketovite tablets -----	28600	potatoes -----	28581, 28582
Randolph Creamery:		Vagnino, E. R.:	
butter -----	28551	egg noodles -----	28525
		Villaume, W. F., Jr.:	
		macaroni -----	28522

² (28554, 28559) Prosecution contested.⁴ (28503, 28553, 28593) Seizure contested.

	N.J. No.		N.J. No.
Vitamin Council, Inc.:		White, J. A.:	
C-V lemon-flavored vitamin C		quick-cooking oats-----	28544
tablets -----	28599	Whiteley, W. B.:	
Waldrop Bros.:		potatoes-----	28581
frozen eggs-----	28561	Whitney & Co.:	
Weil, R. L.:		canned tuna-----	28565
shelled pecans, cornmeal,		Winebrenner, D. E., Co., Inc.:	
shelled almonds, and cocoa--	28589	tomato bouillon-----	28586
Westman Commission Co.:		Wolf, Abner, Inc.:	
shelled pecans, cornmeal,		roasted peanuts-----	⁴ 28593
shelled almonds, and cocoa--	28589		

⁴ (28503, 28553, 28593) Seizure contested.

AUG 26 1963
U.S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION
CURRENT SERIAL RECORDS

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

28601-28700

FOODS

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce, or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered after default or consent; (2) criminal proceedings which were terminated upon pleas of nolo contendere or guilty; and (3) injunction proceedings in which consent decrees of preliminary or temporary injunction were ordered. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal and injunction proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D.C., *July 31, 1963.*

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SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN
VIOLATIONS REPORTED IN F.N.J. NOS. 28601-28700

Adulteration, Section 402(a) (1), the article contained a poisonous or deleterious substance which might render it injurious to health; Section 402 (a) (2) (B), the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408(a); Section 402(a) (2) (C), the article was, bore, or contained a food additive which was unsafe within the meaning of Section 409; Section 402(a) (3), the article consisted in whole or in part of a filthy, putrid, or decomposed substance, or it was otherwise unfit for food; Section 402(a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it might have become contaminated with filth or might have been rendered injurious to health; Section 402(b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b) (2), a substance had been substituted wholly or in part for the article; Section 402(c), the article contained a color additive which was unsafe within the meaning of Section 706(a); Section 408(a), a poisonous or deleterious pesticide chemical, or a pesticide chemical not generally recognized, among qualified experts, as safe for use, added to a raw agricultural commodity, was deemed to be unsafe because no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare; or because the quantity of the pesticide chemical in or on the raw agricultural commodity was not within the limits of a tolerance prescribed by the Secretary of Health, Education, and Welfare; Section 409, a food additive was deemed to be unsafe because the food additive and its use or intended use failed to conform to the terms of an effective exemption or because there was not in effect, or the food additive and its use or intended use failed to be in conformity with, a regulation prescribing conditions for safe use; and Section 706(a), a color additive was deemed to be unsafe because there was not in effect a regulation listing such additive for a particular use, and such additive was not exempted from certification.

Misbranding, Section 403(a), the labeling of the article was false and misleading; Section 403(e), the article was in package form, and it failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; Section 403(f), a word, statement, or other information required by or under authority of the Act to appear on the label or labeling was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; Section 403(g), the article purported to be or was represented as a food for which a definition and standard of identity had been prescribed by regulations and (1) it failed to conform to such definition and standard and (2) its label failed to bear, as required by regulations, the common names of certain optional ingredients present in such food; Section 403(h), the article purported to be or was represented as (1) a food for which a standard of quality had been prescribed by regulations, and its quality fell below such standard or (2) a food for which a standard of fill of container had been prescribed by regulations and it fell below the applicable standard of fill of

container; Section 403(i), the article was not subject to the provisions of Section 403(g) and (1) its label failed to bear the common or usual name of the article; and (2) the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient; and Section 403(k), the article contained a chemical preservative and failed to bear labeling stating that fact.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

28601. Bread crumbs. (F.D.C. No. 48056. S. No. 41-773 T.)

QUANTITY: 221 cases, 24 8-oz. cans each, at Yonkers, N.Y.

SHIPPED: 7-18-62, from Garfield, N.J., by Fragale's Bakery.

RESULTS OF INVESTIGATION: The article was shipped in bulk 50-lb. bags, and repacked by a dealer into 8-oz. cans.

LIBELED: 8-23-62, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained insects, insect parts, and rodent hairs; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 9-27-62. Default—destruction.

28602. Bread crumbs. (F.D.C. No. 48092. S. Nos. 81-432/3 T.)

QUANTITY: 34 cases, each containing 24 8-oz. cans, at Darby, Pa.

SHIPPED: 7-26-62 and 8-6-62, from Bronx, N.Y., by Stella D'Oro Biscuit Co., Inc.

LABEL IN PART: (Can) "Louette Ready Seasoned Bread Crumbs * * * Packed by Louette Food Products Yonkers, N.Y."

LIBELED: 9-14-62, E. Dist. Pa.

CHARGE: 402(a)(3)—contained insects, insect parts, and rodent hairs when shipped.

DISPOSITION: 12-14-62. Default—delivered to a public institution for use as animal feed.

28603. Petits fours (cakes). (F.D.C. No. 48107. S. No. 69-470 T.)

QUANTITY: 18 cases, each containing 2 ctns. of 24 boxes, at Alexandria, Va.

SHIPPED: 7-31-62, from Brentwood, Md., by Hills of Westchester.

LABEL IN PART: (Box) "Petit Fours by Hills of Westchester Washington, D.C. * * * 2½ Ozs. Net Weight."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 9-17-62, E. Dist. Va.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 10-19-62. Default—delivered to a public institution.

28604. Cookies. (F.D.C. No. 47873. S. Nos. 21-152/3 T, 21-306 T.)

INFORMATION FILED: 9-4-62, Dist. Colo., against United Biscuit Co. of America, a corporation, t/a Bowman Biscuit Co., at Denver, Colo.; Bernard H. Velzen, vice president in charge of manufacturing of United Biscuit Co. of America,

Melrose Park, Ill., and Wilbur V. Sprenger, Sr., vice president in charge of manufacturing at the Bowman Biscuit Co.

SHIPPED: Between 2-9-62 and 2-28-62, from Denver, Colo., to Cheyenne, Wyo.

LABEL IN PART: (Pkg.) "SUPREME Mayfair CONTENTS 16 CAKES NET WEIGHT 9¼ OZ. UNITED BISCUIT COMPANY OF AMERICA SUPREME BAKERS DIVISION DENVER, COLO."; "SUPREME Apricot Delite CONTENTS 12 CAKES NET WEIGHT 9¼ OZ. UNITED BISCUIT COMPANY OF AMERICA SUPREME BAKERS DIVISION, DENVER, COLORADO."

CHARGE: 402(a)(3)—contained mouse excreta pellets and mouse hairs; and 402(a)(4)—prepared under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 10-5-62. Corporation fined \$600; each individual fined \$300.

28605. Frozen hush puppies and Shrabs (stuffed shrimp). (F.D.C. No. 47325. S. Nos. 2-176 T, 38-541/3 T.)

INFORMATION FILED: 7-9-62, S. Dist. Ga., against Neptunalia Seafood Co., a corporation, Thunderbolt, Ga., and William F. Mullis, president.

SHIPPED: 10-27-61 and 11-4-61, from Georgia to South Carolina and Alabama.

LABEL IN PART: (Pkg.) "Net Wt. 1 Full Pound Gold King Hush Puppies Southern Style Fried Cornbread Packed by Neptunalia Seafood Company Thunderbolt, Georgia" and "Gold King Shrab 6 oz. Net Weight Shrimp Stuffed with Deviled Crab Covered with Creamery Butter Packed by Neptunalia Seafood Co., Inc. Thunderbolt, Georgia."

CHARGE: 402(a)(3)—contained insects, insect parts, and rodent hairs (hush puppies only); 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 8-8-62. Corporation—\$50 fine; Mullis—\$50 fine and probation for 2 years.

FLOUR*

28606. Flour. (F.D.C. No. 48318. S. No. 30-542 V.)

QUANTITY: 2,614 25-lb. bags, at Los Angeles, Calif., in possession of Certified Grocers of California, Ltd.

SHIPPED: 9-12-62 and 9-14-62, from Logan, Utah.

LIBELED: 10-11-62, S. Dist. Calif.

CHARGE: 402(a)(3)—contained bird excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 11-7-62. Consent—claimed by Certified Grocers of Calif., Ltd. Segregated; 45 bags destroyed.

28607. Flour. (F.D.C. No. 48227. S. Nos. 44-229/31 T.)

QUANTITY: 57 100-lb. bags, at Landisville, N.J., in possession of Mattioli Bros., Inc.

SHIPPED: Between 4-4-61 and 4-13-62, from Minneapolis, Minn., and Philadelphia, Pa.

LIBELED: 10-18-62, Dist. N.J.

*See also No. 28624.

CHARGE: 402(a)(3)—contained insects and insect larvae; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 11-16-62. Default—destruction.

28608. Flour. (F.D.C. No. 48237. S. Nos. 45-303/5 V.)

QUANTITY: 36 50-lb. bags, 60 25-lb. bags, and 157 bales, each containing 2 25-lb. bags, at Morrilton, Ark., in possession of Arkansas Valley Wholesale Grocery Co.

SHIPPED: Between 5-21-62 and 8-18-62, from McPherson, Kans., and Kansas City, Mo.

LIBELED: 10-18-62, E. Dist. Ark.

CHARGE: 402(a)(3)—contained insects, insect larvae, insect cast skins, and insect pupae; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 12-3-62. Default—delivered to a charitable institution for use as animal feed.

28609. Flour. (F.D.C. No. 48356. S. Nos. 48-304/5 V.)

QUANTITY: 754 100-lb. bags, at San Jose, Calif., in possession of Eggo Food Products, Inc.

SHIPPED: Between 8-15-62 and 9-14-62, from Pendleton, Oreg.

LIBELED: 11-13-62, N. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 12-12-62. Consent—claimed by Eggo Food Products, Inc. Segregated; 414 bags denatured for use as dog food.

28610. Flour. (F.D.C. No. 48375. S. Nos. 825/30 V.)

QUANTITY: 42,000 lbs. in 2-, 5-, 10-, and 25-lb. bags, in a railroad car at Tallahassee, Fla.

SHIPPED: 10-10-62, from Salina, Kans.

RESULTS OF INVESTIGATION: Inspection of the railroad car showed that the article was held under insanitary conditions.

LIBELED: 11-19-62, N. Dist. Fla.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 12-18-62. Consent—claimed by Seaboard Air Line Railroad Co. of Richmond, Va., and denatured to be manufactured into animal feed.

28611. Flour and cornmeal mix. (F.D.C. No. 48242. S. Nos. 61-597 T, 61-599/600 T, 84-561/5 T, 84-568/75 T.)

QUANTITY: 24 100-lb. bags, 334 50-lb. bags, and 351 25-lb. bags of flour, and 60 25-lb. bags of cornmeal mix, at Memphis, Tenn., in possession of Caradine Co.

SHIPPED: The flour between 6-13-62 and 8-29-62, from Arkansas City, Kans., and the cornmeal mix, on 8-22-62, from Tupelo, Miss.

LIBELED: 10-19-62, W. Dist. Tenn.

CHARGE: 402(a)(3)—the flour contained rodent urine and the cornmeal mix contained insects; and 402(a)(4)—both articles were held under insanitary conditions.

DISPOSITION: 10-25-62. Consent—denatured for conversion into glue.

28612. Flour, grits, and cornmeal mix. (F.D.C. No. 47895. S. Nos. 46-185 R, 46-187 R, 77-742/4 T.)

INFORMATION FILED: 10-30-62, N. Dist. Ga., against Lanier Bros., a partnership, Atlanta, Ga.

ALLEGED VIOLATION: Between 5-2-60 and 5-11-62, while quantities of flour, grits, and cornmeal mix were being held for sale after shipment in interstate commerce, the defendant caused the articles to be held in a building that was accessible to insects and rodents and to be exposed to contamination by insects and rodents, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 12-17-62. \$500 fine.

MACARONI AND NOODLE PRODUCTS*

28613. Macaroni. (F.D.C. No. 47096. S. Nos. 10-002/4 T.)

INFORMATION FILED: 5-10-62, W. Dist. Pa., against Alex Honig & Co., a partnership, East Pittsburgh, Pa.

ALLEGED VIOLATION: Between 5-18-59 and 8-17-61, while a number of boxes of macaroni were held for sale after shipment in interstate commerce, the defendant caused the article to be held in a building that was accessible to insects and to be exposed to contamination by insects, which acts resulted in the article being adulterated.

CHARGE: 402(a)(3)—contained insects and insect fragments; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 12-20-62. \$1,500 fine, plus costs.

28614. Macaroni product. (F.D.C. No. 48033. S. No. 66-304 T.)

QUANTITY: 107 cases, 12 10-oz. pkgs. each, at Denver, Colo.

SHIPPED: 8-14-62, from Dallas, Tex., by American Beauty Macaroni Co.

LABEL IN PART: (Pkg.) "Vitamin Enriched American Beauty Alphabets."

LIBELED: 9-21-62, Dist. Colo.

CHARGE: 402(a)(3)—contained insects, insect larvae, and insect parts when shipped and while held for sale.

DISPOSITION: 11-16-62. Default—destruction.

28615. Egg noodles. (F.D.C. No. 47001. S. Nos. 47-106/8 T.)

QUANTITY: 6,186 cases, 4 5-lb. boxes each, at Memphis, Tenn.

SHIPPED: Between 7-14-60 and 5-10-61, from Brooklyn, N.Y., by Paramount Macaroni Manufacturing Co., Inc.

*See also No. 28625.

LABEL IN PART: (Box) "Noodles, Egg. 5 Lbs. Net"; (case) "Noodles, Egg * * * 4/5 Lb. Bxs. 20 Lbs. Net Paramount Macaroni Mfg. Co., Inc."

LABELED: 2-1-62, W. Dist. Tenn.

CHARGE: 402(b)(1)—when shipped, the valuable constituent, egg or egg yolk solids, had been in whole or in part omitted from the article; and 403(g)(1)—the article failed to conform to the definition and standard of identity for egg noodles, since the article contained less than 5.5 percent by weight of solids of egg or egg yolk.

DISPOSITION: 5-16-62. Consent—released for use by the Government as macaroni, and not as egg noodles.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

28616. Wheat. (Inj. No. 424.)

COMPLAINT FILED: 3-7-62, Dist. S. Dak., against Dakota Hatchery & Mill, Redfield, S. Dak., Charles Borchard, president and general manager, and Dale Borchard, vice president and assistant manager.

CHARGE: The complaint alleged that the defendants were engaged in the operation, at Redfield, S. Dak., of a grain storage facility which included one flat-storage building constructed of metal sheeting upon a concrete slab, for the storage and distribution of wheat for human consumption, and that the defendants were causing to be introduced into interstate commerce wheat which was adulterated within the meaning of 402(a)(3) and 402(a)(4); that the wheat consisted in part of a filthy substance by reason of the presence of live mice, mice carcasses, and rodent excreta in the wheat; and that the wheat had been and was being held at the defendants' grain storage facility at Redfield, S. Dak., under insanitary conditions whereby it may have become contaminated with filth and whereby it may have been rendered injurious to health as a result of the careless use of a rodenticide.

It was alleged further that the insanitary conditions of the defendants' grain storage facilities at Redfield, S. Dak., resulted from and consisted of the presence in the flat-storage building constructed of metal sheeting upon a concrete slab of the following: live mice upon the wheat, observed near the door at the building's west end, and observed in the area of the building's east wall; 1 dead mouse in the area of a metal bulkhead adjacent to that door, 4 dead mice in the area of the building's east wall, and 6 decomposing mouse carcasses on beams 2 to 4 feet above the wheat near the building's south wall; approximately 100 rodent pellets per square foot on the surface of the wheat in the building's southeast corner; gnawed wheat kernels and approximately 50 rodent pellets per square foot of the area at the door at the building's west end; grain residue 2 inches in depth containing gnawed wheat kernels and over 100 rodent pellets per square foot, in the channel iron of a bulkhead near the door at the building's west end, and rodent tracks and approximately 50 rodent pellets per square foot on the surface of the wheat in the adjacent area; approximately 10 rodent pellets per square foot and several hundreds of rodent tracks on the surface of the wheat at the building's north end; rodent burrows, rodent trails, rodent tracks, and 50 rodent pellets per square foot upon the surface of the wheat, in the building's northeast corner; rodent tracks and approximately 15 rodent pellets per square foot on the surface of the wheat, near the center of the building's east wall; a rodent burrow in heated, moldy, and caked wheat 10 feet from the east wall towards the building's southeast corner; approximately 6 to 8 rodent pellets per square

foot on the surface of the wheat along the building's south wall and as many as 100 pellets per linear foot on some of the beams above this area; rodent trails and excreta pellets on the surface of the wheat and 2 rodent burrows near the building's southwest corner; rodent tracks, rodent trails, and between 10 to 20 rodent pellets per square foot, along the building's northwest corner; and a 1 gallon fountain type container of Pivalyn, a liquid rodenticide, which fountain rested on a 1-foot length of board placed directly on the surface of the wheat along the east wall near the building's north end.

DISPOSITION: On 3-7-62, a temporary restraining order was entered enjoining the defendants against the acts complained of. On 3-16-62, a consent decree of preliminary injunction was filed which provided as follows:

That the defendants be enjoined from directly or indirectly introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, wheat for human consumption and any similar article of food which was adulterated within the meaning of 402(a)(3) in that it consisted in part of a filthy substance and within the meaning of 402(a)(4) in that it had been held under insanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health as a result of the careless use of rodenticide.

That the defendants be enjoined from directly or indirectly introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, wheat for human consumption and any similar article of food held at defendants' flat-storage building constructed of metal sheeting upon a concrete slab, at Redfield, S. Dak., unless and until:

(a) the building was thoroughly cleaned and renovated and rendered suitable for use in connection with the storage of wheat for human consumption and any similar article of food, to wit, unless and until all rodents and rodent filth were removed from the building; all rodent infestation in and about the building was eliminated; the means of ingress and egress of the building by rodents were closed; all fountains of liquid rodenticide and any other bait station used in the building for the dispensing of any rodenticide were firmly attached to the building or otherwise secured against being overturned; all fountains of liquid rodenticide and other bait stations used in the building for the dispensing of any rodenticide were constructed so as to provide for the adequate and secure containment, by blotting, by a leak-proof receptacle or by other means, of any rodenticide which might be spilled, and to provide that no rodenticide shall come in contact with or be mingled with wheat for human consumption or any similar article of food; and any similar insanitary conditions which may result in wheat for human consumption and any similar article of food being contaminated with filth and rodenticide while held at the building were eliminated; and

(b) all of the wheat which was on hand at the building at the time the building was cleaned, renovated, and rendered suitable for the storage of food for human consumption was destroyed, denatured for use as animal feed, or cleaned and otherwise reconditioned under the supervision of a duly authorized representative of the Food and Drug Administration.

On 10-16-62, it appearing that the defendants were no longer in violation, an order was entered by consent dismissing the preliminary injunction.

28617. Wheat. (F.D.C. No. 47820. S. No. 70-795 T.)

QUANTITY: 120,000 lbs., at Minneapolis, Minn.

SHIPPED: 7-20-62, from Outlook, Mont., by Charles Grant.

LIBELED: 8-10-62, Dist. Minn.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, namely, a mercurial compound, which was unsafe within the meaning of 408(a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat had been prescribed by regulations.

DISPOSITION: 8-21-62. Consent—claimed by Charles Grant, Daleville, Mont., and denatured.

28618. Wheat. (F.D.C. No. 47977. S. Nos. 4-741 T, 5-332 T.)

QUANTITY: 3,000 bushels, at Driver, Va.

SHIPPED: 5-23-62, from Galveston, Tex.

RESULTS OF INVESTIGATION: Investigation showed that the wheat was damaged by sea water while enroute from Texas to Virginia.

LIBELED: 8-20-62, E. Dist. Va.

CHARGE: 402(a)(3)—contained a decomposed substance while in interstate commerce.

DISPOSITION: 9-20-62. Default—destruction.

28619. Wheat. (F.D.C. No. 48303. S. No. 34-061 V.)

QUANTITY: 80,000 lbs. at Glenwood, Minn.

SHIPPED: 8-30-62, from Braddock, N. Dak., by Uhlich Elevator Co.

LIBELED: 10-5-62, Dist. Minn.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, namely, a mercurial compound, which was unsafe within the meaning of 408(a), since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat had been prescribed by regulations.

DISPOSITION: 10-16-62. Consent—claimed by Freda Uhlich, t/a Uhlich Elevator Co. Segregated and reconditioned; 3,570 lbs. destroyed.

28620. Wheat bran. (F.D.C. No. 47533. S. No. 64-865 T.)

QUANTITY: 53 100-lb. bags at Atascadero, Calif.

SHIPPED: 2-23-61 and 6-8-61, from Wichita, Kans., by M. Bruenger & Co., Inc.

LABEL IN PART: (Bag) "100 Lbs. Net Wheat Bran Manufactured by The Kansas Milling Company, Wichita, Kansas."

LIBELED: 6-6-62, S. Dist. Calif.

CHARGE: 402(a)(2)(C)—when shipped, the article contained DDT, a food additive which was unsafe within the meaning of 409, since it and its use or intended use were not in conformity with a regulation or exemption in effect pursuant to 409.

DISPOSITION: 6-29-62. Default—destruction.

28621. Breeding. (F.D.C. No. 47973. S. No. 64-559 T.)

QUANTITY: 5 100-lb. drums at Savannah, Ga.

SHIPPED: 7-11-62, from St. Louis, Mo.

LIBELED: 8-13-62, S. Dist. Ga.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 9-11-62. Default—denatured for use as animal feed and delivered to a charitable institution.

28622. Cereal meal. (F.D.C. No. 47936. S. No. 63-890 T.)

QUANTITY: 10 cases, 10 10-lb. bags each, at Atlanta, Ga.

SHIPPED: 5-1-62, from Jersey City, N.J.

LIBELED: 8-7-62, N. Dist. Ga.

CHARGE: 402(a)(3)—contained insects, insect larvae, and insect pupae while held for sale.

DISPOSITION: 9-13-62. Default—destruction.

28623. Doughnut mix. (F.D.C. No. 46786. S. No. 6-615 T.)

QUANTITY: 3 100-lb. bags, at Springfield, Mass., in possession of O. K. Bakers Supply Co.

SHIPPED: Between 5-1-61 and 5-31-61, from Evansville, Ind.

LIBELED: 12-15-61, Dist. Mass.

CHARGE: 402(a)(4)—while held for sale, the article was held under insanitary conditions.

DISPOSITION: 1-29-62. Default—article ordered destroyed or delivered to a public or charitable institution for use as animal feed.

28624. Oatmeal and flour. (F.D.C. No. 48004. S. Nos. 83-581/2 T.)

QUANTITY: 42 cases, 12 2-lb. 10-oz. pkgs. each, of oats; and 49 bales, 2 25-lb. bags each, of flour, at Conway, Ark., in possession of Hiegel Wholesale Grocery Co.

SHIPPED: Between 1-6-62 and 5-14-62, from St. Joseph, Mo., and Kansas City, Mo.

LIBELED: 8-27-62, E. Dist. Ark.

CHARGE: 402(a)(3)—the oats contained insects and the flour contained insects, insect larvae, and insect cast skins; and 402(a)(4)—the articles were held under insanitary conditions.

DISPOSITION: 9-18-62. Default—delivered to a charitable organization for use as animal feed.

28625. Rolled oats and macaroni. (F.D.C. No. 47329. S. Nos. 27-036/7 T, 27-039/40 T, 27-043/4 T.)

INFORMATION FILED: 8-9-62, Dist. Nebr., against Wholesale Grocers, Inc., Omaha, Nebr., and George E. Cramer, plant manager.

ALLEGED VIOLATIONS: Between 5-26-61 and 10-11-61, while quantities of rolled oats and macaroni were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building accessible to insects and caused the articles to be exposed to contamination by insects, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 12-18-62. Corporation—\$1,200 fine, probation for 2 years and suspended fine of \$4,000; individual—\$100 fine and probation for 1 year.

28626. Rice. (F.D.C. No. 48125. S. No. 77-068 T.)

QUANTITY: 118 bales, each containing 30 2-lb. bags, at Charlotte, N.C.

SHIPPED: 3-6-62 and 5-28-62, from Mobile, Ala.

LIBELED: 10-9-62, W. Dist. N.C.

CHARGE: 402(a) (3)—contained insects and insect larvae while held for sale.

DISPOSITION: 1-2-63. Default—destruction.

CHOCOLATE, CONFECTIONERY, AND RELATED PRODUCTS

CHOCOLATE PRODUCTS

28627. Cocoa beans. (F.D.C. No. 48381. S. Nos. 42-482/500 V, 58-481/2 V.)

QUANTITY: Approximately 523,357 bags, each containing 140 lbs., at Philadelphia, Pa., in possession of Philadelphia Piers, Inc.

SHIPPED: On various dates during the period of 1961 through 9-30-62, from various countries.

LIBELED: 11-28-62, E. Dist. Pa.

CHARGE: 402(a) (3)—some lots contained live insects or live insect larvae; and 402(a) (4)—all lots held under insanitary conditions.

DISPOSITION: 5,490 bags of cocoa beans were claimed by General Cocoa Co., Inc., New York, N.Y., and a consent decree as to such bags was entered on 11-30-62. On 12-7-62, a second consent decree was entered for the remaining lots which were claimed by: Ernest Adler Co., J. Aron & Co., Inc., Blommer Chocolate Co., Christman & Co., Curacao Trading Co., Inc., Gill & Duffus, Inc., General Cocoa Co., Inc., Namarib Co., Holland Colombo Trading Society Co., A. C. Israel Commodity Co., Inc., Produce Unitrade, Inc., Rayner & Stonington, Inc., Harris, Upham & Co., Scholtz & Co., and Bache and Co. All lots were released under bond to be brought into compliance with the law.

28628. Cocoa press cake. (F.D.C. No. 48105. S. No. 74-744 T.)

QUANTITY: 170 176-lb. bags at Jersey City, N.J.

SHIPPED: 11-28-60, from Dominican Republic.

LIBELED: 9-18-62, Dist. N.J.

CHARGE: 402(a) (3)—contained insect larvae, insect webbing, and insect excreta while held for sale.

DISPOSITION: 11-1-62. Default—destruction.

CONFECTIONERY

28629. Candy. (F.D.C. No. 47851. S. No. 23-178 T.)

INFORMATION FILED: 9-4-62, Dist. Colo., against Anthony G. Skoulas, t/a Universal Sweetheart Candies, Loveland, Colo.

SHIPPED: 11-25-61, from Colorado to Wyoming.

CHARGE: 402(a) (3)—contained insects, insect fragments, and mites; and 402 (a) (4)—prepared under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 11-2-62. \$200 fine.

28630. Candy. (F.D.C. No. 48022. S. No. 70-761 T.)

QUANTITY: 69 cases, each containing 24 8-oz. bags, at Minneapolis, Minn.

SHIPPED: 8-21-62, from Moline, Ill., by Fresh-Pak Candy Co.

LABEL IN PART: (Bag) "Pleasmor Fresh Burnt Peanuts Distributed by Nash-Finch Company, Minneapolis, Minnesota Ingredients:—Certified Colors and Imitation Flavors."

RESULTS OF INVESTIGATION: The article was contained in clear cellophane bags on which the name and address of the manufacturer and quantity of contents and ingredients statements were inconspicuous due to being printed in very small type in ink of a color similar to that of candy in the bag.

LIBELED: 9-11-62, Dist. Minn.

CHARGE: 403(f)—when shipped, the information required to appear on the label of the article under 403(e) (1) and (2), 403(i) (2), and 403(k), namely, name and address of manufacturer, packer, or distributor, an accurate statement of the quantity of contents, namely, the statement of ingredients, and the declaration of artificial color and flavors, was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 10-24-62. Default—delivered to charitable institutions for use therein.

28631. Candy. (F.D.C. No. 48055. S. No. 63-567 T.)

QUANTITY: 320 cases, each containing 24 1-lb. bags, at Hopkins, Minn.

SHIPPED: 6-19-62 and 6-27-62, from Moline, Ill., by Fresh-Pak Candy Co.

LABEL IN PART: (Bag) "Pleasmor Jellies * * * Distributed by Nash-Finch Company, Minneapolis, Minnesota. Ingredients: * * * Certified Colors, Imitation flavor."

RESULTS OF INVESTIGATION: The article was contained in clear cellophane bags on which the name and address of the manufacturer, and the quantity of contents and ingredients statements were inconspicuous due to being printed in very small type in ink of a color similar to that of the candy within the bag.

LIBELED: 8-27-62, Dist. Minn.

CHARGE: 403(f)—when shipped, the information required to appear on the label under 403(e) (1) and (2), 403(i) (2), and 403(k), namely, the name and address of the manufacturer, packer, or distributor, an accurate statement of the quantity of contents, the statement of ingredients, and the declaration of artificial color and flavors, was not prominently placed on the label with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 10-9-62. Default—delivered to charitable institutions.

28632. Pralines (candy). (F.D.C. No. 48026. S. No. 91-168 T.)

QUANTITY: 18 cases, each containing 12 boxes of 24 pkgs. each, at Oklahoma City, Okla.

SHIPPED: 8-7-62 and 8-12-62, from San Antonio, Tex., by Judson's Candies, Inc.

LABEL IN PART: (Pkg.) "Judson's Chewy Praline Net Weight 1 Oz. or over
Ingredients:—Natural and Artificial Flavors. Judson's Candies, Inc. San Antonio, Texas."

RESULTS OF INVESTIGATION: The article was caramel colored candy wrapped in cellophane in such a manner that the manufacturer's name and place of business, net weight and ingredients statement, and declaration of artificial flavoring were concealed in the folds of the wrapper and were not readable until the candy was unwrapped.

LIBELED: 9-12-62, W. Dist. Okla.

CHARGE: 403(f)—when shipped, the information required to appear on the label under 403(e) (1) and (2), 403(i) (2), and 403(k), namely, the manufacturer's name and place of business, an accurate statement of the quantity of contents, the common or usual name of each ingredient, and the declaration of artificial flavoring, was not prominently placed on the label with such conspicuousness as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 9-20-62. Consent—delivered to a charitable institution.

28633. Spearmint leaves (candy). (F.D.C. No. 47255. S. No. 12-032 T.)

QUANTITY: 51 cases, 24 1-lb. bags each, at Milwaukee, Wis.

SHIPPED: Between 3-13-62 and 3-20-62, from Chicago, Ill., by Wolch Nut & Candy Co.

LABEL IN PART: (Bag) "Wolchs * * * Spearmint Leaves * * * Wolch Nut & Candy Co., Chicago, Ill."

RESULTS OF INVESTIGATION: Examination showed that the article consisted of leaf-shaped pieces of candy packed in clear plastic bags. The distributor's name and address and the statement of ingredients were inconspicuous due to being printed in a green ink similar in color to the candy within the bag.

LIBELED: 3-21-62, E. Dist. Wis.; libel amended 4-3-62.

CHARGE: 403(f)—when shipped, the information required by 403(e) (1) and (i) (2), namely, the name and place of business of the manufacturer, packer, or distributor, and the statement of ingredients, was not prominently placed on the labels with such conspicuousness (as compared with other words and statements on the labels) as to render such information likely to be read by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 5-3-62; decree amended 5-7-62. Default—delivered to a charitable institution.

28634. Butterscotch chips (candy). (F.D.C. No. 48299. S. No. 33-381 V.)

QUANTITY: 300 cases, 24 bags each, at Newport, Minn., in possession of J. P. Fritz Candy Co., Inc.

SHIPPED: 8-9-62, from Milwaukee, Wis.

LABEL IN PART: (Bag) "Net wt. 6 oz. Butterscotch chips Packed by J. P. Fritz Candy Co., Inc., Newport, Minn. Ingredients * * * Sweet Cream Butter, Milk Solids, * * * Emulsifier."

RESULTS OF INVESTIGATION: The article was repacked by the dealer, from bulk stock labeled in part "Imitation Butterscotch Flavored Cookie Drops Ingredients: Sweet Cream Buttermilk Solids * * * Artificial Flavor, Lecithin * * *," and shipped as described above.

LIBELED: 10-4-62, Dist. Minn.

CHARGE: 403(a)—while held for sale, the name “Butterscotch chips” and the label statement “Sweet Cream Butter” were false and misleading as applied to a product containing little or no butter; and 403(i)(2)—the label failed to state the common or usual name of each ingredient, since emulsifier and milk solids are not the common or usual names of ingredients, and since the presence of dried buttermilk was not declared.

DISPOSITION: 11-21-62. Consent—claimed by J. P. Fritz Candy Co., Inc.; repacked and relabeled.

28635. Marshmallows. (F.D.C. No. 47933. S. Nos. 33-593 T, 70-721 T.)

QUANTITY: 97 cases, 24 10½-oz. pkgs. each, 75 cases, 24 10-oz. pkgs. each, and 120 cases, 12 1-lb. pkgs. each, at St. Cloud, Minn.

SHIPPED: 6-11-62 and 7-3-62, from Elk Grove, Ill., by Doumak, Inc.

LABEL IN PART: (Pkg.) “Pleasmor Miniature Marshmallows [or “Pleasmor Marshmallows”] * * * Distributed by Nash-Finch Company, Minneapolis, Minnesota Ingredients * * * Waxy Maize Stabilizer * * * Artificial Flavors, U.S. Certified Food Colors.”

RESULTS OF INVESTIGATION: The article was white marshmallows contained in clear plastic bags, on which the manufacturer’s name and address, quantity of contents statement on the 10-oz. and 10½-oz. packages, and the statement of ingredients were printed in white ink, and the statement of ingredients was printed in very small type, which information was thereby inconspicuous against the white product in the background.

LIBELED: 8-6-62, Dist. Minn.

CHARGE: 403(f)—when shipped, the information required under 403 (e)(1), (e)(2), (i)(2), and (k), to appear on the label, namely, the manufacturer’s name and place of business, the quantity of the contents of the 10-oz. and the 10½-oz. packages, statement of ingredients, and declaration of artificial flavor, was not prominently placed on the label with such conspicuousness (as compared with other words and statements on the label) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use; and 403(i)(2)—the label of the article failed to bear the common or usual name of each ingredient since the term “waxy maize stabilizer,” was not the common or usual name of any ingredient.

DISPOSITION: 9-25-62. Consent—claimed by Nash-Finch Co., and relabeled.

28636. Marshmallows. (F.D.C. No. 47698. S. No. 61-985 T.)

QUANTITY: 46 ctns., 12 bags each, at Hartford, Conn.

SHIPPED: 6-4-62, from Cambridge, Mass., by Greylock Confectionery Co.

LABEL IN PART: (Bag) “Good Pal Marshmallows Net Weight 14 Ounces
Ingredient: * * * Greylock Confectionery Co., Cambridge, Mass.”

RESULTS OF INVESTIGATION: The name and address of the manufacturer, quantity of contents and ingredient statements, were inconspicuous due to being printed in white ink against the white marshmallows in the background.

LIBELED: 7-24-62, Dist. Conn.

CHARGE: 403(f)—when shipped, the information required by 403 (e)(1),

(e) (2), (i) (2) and (k) to appear on the label, namely, name and address of manufacturer, packer, or distributor, quantity of contents, ingredient statements, and declaration of artificial flavor and color, was not prominently placed on the label with such conspicuousness (as compared with other words and statements on the label) as to render such information likely to be read by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 11-15-62. Default—delivered to charitable institutions.

SIRUP, SUGAR, AND RELATED PRODUCTS

28637. Grenadine sirup. (F.D.C. No. 47590. S. Nos. 42-540 T, 43-280 T.)

QUANTITY: 29 cases, 12 $\frac{4}{5}$ -pt. btls. each, at Pennsauken, N.J.

SHIPPED: 2-28-62 and 3-15-62, from Brooklyn, N.Y., by Virginia Dare Extract Co., Inc.

LABEL IN PART: (Btl.) "Virginia Dare * * * Grenadine Syrup * * * Mfd. by Virginia Dare Extract Co., Inc., Brooklyn, N.Y."; " $\frac{4}{5}$ Pint" was embossed in the glass.

RESULTS OF INVESTIGATION: Examination showed that the article was short in volume.

LIBELED: 5-15-62, Dist. N.J.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents; 403(i) (2)—the label failed to state the common or usual name of each ingredient, since the ingredient sodium benzoate was not declared; and 403(k)—the article contained a chemical preservative, sodium benzoate, and its label failed to state that fact.

DISPOSITION: 6-20-62. Default—delivered to a charitable institution.

28638. Sugar. (F.D.C. No. 48047. S. No. 67-279 T.)

QUANTITY: 65 100-lb. bags, at Pinconning, Mich., in possession of Heinr Franck Sons, Inc.

SHIPPED: 3-13-61, from Chicago, Ill.

LIBELED: 10-1-62, E. Dist. Mich.

CHARGE: 402(a) (3)—contained rodent urine; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 11-30-62. Default—destruction.

28639. Honey. (F.D.C. No. 47661. S. Nos. 56-436/7 T.)

QUANTITY: 53 cases, 24 jars each, at Bronx, N.Y.

SHIPPED: Between 8-14-61 and 4-3-62, from St. Paris, Ohio, by Ohio Apiaries Coop. Association.

LABEL IN PART: (Jar) "Salvati Brand Pure Honey Net Wt. 8 Oz. Distributed by Salvati Food Products Co., Inc., New York, N.Y."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 6-14-62, S. Dist. N.Y.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 8-8-62. Consent—claimed by Salvati Food Products Co., Inc., and relabeled.

28640. Honey. (F.D.C. No. 47736. S. No. 77-169 T.)

QUANTITY: 50 supers (wood frames), each containing 50 lbs. of honey, at Tallahassee, Fla.

SHIPPED: 6-29-61, from Pearson, Ga.

LIBELED: 7-16-62, N. Dist. Fla.

CHARGE: 402(a)(3)—contained insects, insect larvae, and rodent hairs while held for sale.

DISPOSITION: 9-20-62. Default—destruction.

DAIRY PRODUCTS

BUTTER

28641. Butter. (F.D.C. No. 47641. S. No. 40-223 V.)

QUANTITY: 111 64-lb. ctns., at Elmhurst, Long Island, N.Y.

SHIPPED: 9-29-62, from Madison, Nebr., by Madison Cooperative Creamery.

LABEL IN PART: (Ctn.) "Creamery Butter * * * Keep Refrigerated Sweet Butter."

RESULTS OF INVESTIGATION: Inspection at the Madison Cooperative Creamery showed that the firm used filthy cream in the manufacture of this butter.

LIBELED: 10-11-62, E. Dist. N.Y.

CHARGE: 402(a)(3)—contained insect filth and other filth when shipped.

DISPOSITION: 12-10-62. Consent—claimed by J. R. Kramer, Inc., Elmhurst, L.I., N.Y., and released under bond to be denatured.

28642. Butter. (F.D.C. No. 46654. S. Nos. 8-727/8 R, 35-471/2 R, 36-235 R, 36-237 R, 37-464/5 R, 39-521 R.)

INFORMATION FILED: 1-25-62, Dist. Nebr., against Sugar Creek Creamery, Div. of National Dairy Products Corp., t/a Harding Creamery Co., a corporation, Omaha, Nebr.

SHIPPED: Between 8-13-60 and 9-14-60, from Omaha, Nebr., to Philadelphia, Pa., St. Louis, Mo., Newark, N.J., and Albany, New York City, Troy, and Queens Village, N.Y.

LABEL IN PART: (Pkg.) "Beverly Farms Brand Butter 1 Pound Net Packed by Sugar Creek Creamery Company Division National Dairy Products Corporation Danville, Illinois"; (pkg.) "Bonnie Farms 'Freshly Churned' Packed By Sugar Creek Creamery Division National Dairy Products Corporation Danville, Ill., 1 Lb. Net Weight"; (ctns.) "Butter 64 Lbs. Net. Churned By Harding Creamery Omaha, Nebraska"; (ctn.) "Salt 1 Lb. Print Capital"; (pkg.) "Capital Brand Butter One Pound Net Weight Packed By Harding Cream Division Omaha, Nebraska"; (pkg.) "Meramec Farms Butter Net Wt. 1 Lb. Packed By Sugar Creek Creamery Division National Dairy Products Corporation, Danville, Illinois."

CHARGE: 402(a)(3)—manufactured from decomposed cream and contained insects, insect fragments, mites, and rodent hairs when shipped.

PLEA: Nolo contendere.

DISPOSITION: 12-18-62. \$450 fine.

EGGS

28643. Frozen eggs. (F.D.C. No. 47718. S. Nos. 16-872/76 T, 16-886 T, 16-888 T, 16-891 T.)

QUANTITY: 167 30-lb. cans, at Louisville, Ky.

SHIPPED: Between 8-31-61 and 11-21-61, from Ramsey, Ind., by Martin's Hatchery, Inc.

RESULTS OF INVESTIGATION: The article was packed in secondhand cans, and was shipped frozen or unfrozen.

LIBELED: 7-11-62, W. Dist. Ky.

CHARGE: 402(a)(3)—when shipped, the article contained decomposed eggs; 403(a)—its label bearing the United States Department of Agriculture inspection shield was false and misleading as applied to a product which was not produced under continuous inspection service of the United States Department of Agriculture; and 403(e)(1)—its label failed to bear the name and address of the manufacturer, packer, or distributor.

DISPOSITION: 10-3-62. Consent—claimed by Martin's Hatchery, Inc. Segregated; 49 cans denatured, the remainder relabeled.

28644. Frozen eggs. (F.D.C. No. 44773. S. No. 14-847 R.)

QUANTITY: 100 30-lb. cans at Columbus, Ohio.

SHIPPED: 7-25-60, from Farina, Ill., by Brown Produce Co.

LABEL IN PART: (Can) "Whole Eggs Dist. by Ballas Egg Prod. Co. Inc., Zanesville, Ohio."

LIBELED: 8-12-60, S. Dist. Ohio; amended libel 8-23-60.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 11-8-62. Consent—destruction.

28645. Frozen eggs. (F.D.C. No. 46393. S. Nos. 2-315/16 R.)

INFORMATION FILED: 6-13-62, M. Dist. Ga., against Dixie Egg Co. of Georgia, a corporation, Donalsonville, Ga., and Meyer Klempf, general manager.

SHIPPED: 8-30-60, from Donalsonville, Ga., to Jacksonville, Fla.

LABEL IN PART: (Can) "WHOLE EGGS Net Wt. 30# Packed by Dixie Egg Co. Donalsonville, Ga." or "WHOLE EGGS 30# Net Wt."

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

PLEA: Guilty.

DISPOSITION: 11-19-62. Corporation—\$500 fine; individual—\$250 fine.

FEEDS AND GRAINS

28646. Cottonseed meal. (F.D.C. No. 47870. S. No. 61-628 R.)

INFORMATION FILED: 11-8-62, N. Dist. Tex., against Mid West Cooperative Oil Mill, a corporation, Hamlin, Tex.

SHIPPED: 1-8-62, from Hamlin, Tex., to Lawton, Okla.

LABEL IN PART: (Bag) "100 Pounds (Net) 41% Protein Cottonseed Meal Prime Quality Manufactured By Mid West Cooperative Oil Mill, Hamlin, Texas Guaranteed Analysis Crude Protein not less than—41.00 percent."

CHARGE: 403(a)—the name "41% Protein Cottonseed Meal" and the label statement "Crude Protein not less than . . . 41.00 percent," displayed upon the label of the article were false and misleading, since the article contained less than 41 percent protein.

PLEA: Guilty. -

DISPOSITION: 11-8-62. \$100 fine.

28647. Dehydrated alfalfa meal. (F.D.C. No. 48247. S. Nos. 7-025 T, 6-822 V.)

QUANTITY: 335 50-lb. bags at Taunton, Mass.

SHIPPED: 6-7-62, from Mark Center, Ohio, by Miller Feed Co.

LABEL IN PART: (Tag) "Dehydrated Alfalfa Meal * * * Made from Dehydrated Alfalfa hay Manufactured By Miller Alfalfa Company, Defiance, Ohio Guaranteed Analysis Crude Protein, not less than 20.0 per cent * * * Crude Fibre, Not more than 22.0 per cent."

RESULTS OF INVESTIGATION: Examination showed that the article contained less than the declared amount of crude protein and more than the declared amount of crude fiber.

LIBELED: 10-24-62, Dist. Mass.

CHARGE: 402(b)(1)—when shipped, the valuable constituent, namely crude protein had been in whole or in part omitted or abstracted from the article; 402(b)(2)—crude fiber had been substituted in part for crude protein; and 403(a)—the label statements "Crude Protein, not less than 20.0 per cent" and "Crude Fibre, not more than 22.0 per cent" were false and misleading.

DISPOSITION: 11-21-62. Consent—claimed by Lockwood Nutrition Service, Inc., Boston, Mass., and relabeled.

FISH AND SHELLFISH*

28648. Frozen perch fillets. (F.D.C. No. 47668. S. No. 8-376 T.)

QUANTITY: 38 cases, each containing 5 10-lb. ctns., each containing 10 pkgs. of fish fillets, at Gloucester, Mass.

SHIPPED: The article was from fish caught by the fishing vessel "Wild Duck" in waters of the Atlantic Ocean outside of the territorial limits of Massachusetts.

LIBELED: 6-14-62, Dist. Mass.

CHARGE: 402(a)(3)—contained parasitic copepods when shipped.

DISPOSITION: 7-20-62. Consent—claimed by the New England Fillet Co., Inc., Boston, Mass.; unfit portions segregated and destroyed.

28649. Frozen perch fillets. (F.D.C. No. 48081. S. No. 77-853 T.)

QUANTITY: 59 50-lb. ctns., each containing 5 10-lb. ctns., at Boston, Mass.

SHIPPED: These fillets were from fish caught by the fishing vessels "Ethelina" and "Magellan" in the waters of the Atlantic Ocean outside the territorial limits of Massachusetts, and landed at Boston, Mass., on 8-9-62.

LIBELED: 9-4-62, Dist. Mass.

CHARGE: 402(a)(3)—contained parasitic copepods when shipped.

DISPOSITION: 12-18-62. Consent—claimed by John Mantia & Sons Co., Inc., Boston, Mass., and reconditioned.

*See also No. 28605.

28650. Canned shrimp. (F.D.C. No. 48020. S. No. 73-409 T.)

QUANTITY: 36 ctns., each containing 24 5-oz. cans, at McKeesport, Pa.

SHIPPED: 6-21-62 and 7-24-62, from Biloxi, Miss., by Gulf Central Sea Foods, Inc.

LABEL IN PART: (Can) "Gulf Central Brand Wet Pack Shrimp small Distributed by Gulf Central Sea Foods Inc., Biloxi, Miss."

RESULTS OF INVESTIGATION: Examination showed that the article contained excessive amounts of broken shrimp.

LIBELED: 8-31-62, W. Dist. Pa.

CHARGE: 402(b) (2)—when shipped, broken shrimp had been substituted in part for whole shrimp; and 403(a)—the label statement "Shrimp" and a vignette depicting whole unbroken shrimp were false and misleading as applied to a product consisting in part of broken shrimp.

DISPOSITION: 10-1-62. Default—destruction.

28651. Canned shrimp. (F.D.C. No. 47724. S. No. 44-269 T.)

QUANTITY: 30 cases, 24 cans each, at Philadelphia, Pa.

SHIPPED: 5-23-62, from Westwego, La., by Robinson Canning Co., Inc.

LABEL IN PART: (Can) "Sultana Brand Wet Pack Shrimp Medium * * * Net Drained Wt. 5 Oz. The Great Atlantic & Pacific Tea Company, New York, N.Y. Distributor."

RESULTS OF INVESTIGATION: Examination showed that the article was 2.6 percent short in drained weight.

LIBELED: 7-17-62, E. Dist. Pa.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents, since the label statement "Net Drained Wt. 5 Oz." was inaccurate; and 403(h) (2)—the article fell below the standard of fill of nontransparent containers for canned wet pack shrimp, in that the containers of the article were so filled that the cut-out weight of shrimp taken from each can was less than 64 percent of the water capacity of the container and the label of the article failed to bear, as specified by regulations, a statement that it fell below such standard.

DISPOSITION: 11-15-62. Default—distributed to charitable institutions.

28652. Frozen shrimp. (F.D.C. No. 45286. S. Nos. 32-706/9 R, 34-278/80 R, 34-441 R.)

QUANTITY: 10,265 cases, each containing 10 5-lb. ctns., at Newark, N.J.

SHIPPED: 10-12-60, from Nogales, Ariz., by Wilbur-Ellis Co.

LABEL IN PART: (Case and ctn.) "Gulf of California Frozen Fresh Shrimp [or "Ocean Star Frozen Fresh Shrimp" or "Ocean Garden Fresh Frozen Shrimp"] Packed for Ocean Garden Products, Inc., Santiago, California * * * Product of Mexico."

RESULTS OF INVESTIGATION: Examination showed that 70 percent to 80 percent of the cartons bore smoke stains and burns and that the shrimp bore heavy smoke odor; were thawed in part and refrozen; and contained bits of burned paper and miscellaneous dirt.

LIBELED: 12-20-60, Dist. N.J.

CHARGE: 402(a) (3)—contained miscellaneous dirt and bits of burned paper; and was otherwise unfit for food by reason of smoke contamination when shipped.

DISPOSITION: 1-19-61. Consent—claimed by Wilbur-Ellis Co., New York, N.Y. Segregated; 71,910 lbs. destroyed and 95,500 lbs. denatured for use as bait and animal feed.

28653. Frozen shrimp. (F.D.C. No. 47995. S. No. 84-238 T.)

QUANTITY: 565 cases, each containing 24 8-oz. pkgs., at St. Louis, Mo.

SHIPPED: 6-22-62, from Morgan City, La., by Morgan City Freezer & Cold Storage.

LABEL IN PART: (Pkg.) "Donnes' Fisherman's Dream Shrimp In-Shell Frozen Fancy Headless * * * Distributed by Quality Frozen Foods, Thibodaux, La." or "Fisherman's Fling Fresh Frozen Headless Shrimp in the Shell * * * Morgan City Freezing and Cold Storage Co., Morgan City, Louisiana."

RESULTS OF INVESTIGATION: Examination showed that the article contained fish, crabs, eels, seaweed, and small whole shrimp with heads on.

LIBELED: 8-22-62, E. Dist. Mo.

CHARGE: 402(b) (2)—when shipped, fish, crabs, eels, and seaweed were substituted in part for shrimp; and 403(a)—the label vignette depicting headless shrimp and the label statements "Fancy" and "Headless" were false and misleading, as applied to a product which was not "Fancy" and consisted of shrimp with heads on.

DISPOSITION: 10-5-62. Consent—claimed by B. A. Favret, t/a Bougon Oyster House, Morgan City, La., and reconditioned for use as bait.

FRUITS AND VEGETABLES

CANNED FRUIT

28654. Canned peaches. (F.D.C. No. 42938. S. No. 45-980 P.)

QUANTITY: 2,195 cases, each containing 24 1-lb. 13-oz. cans, at Dallas, Tex.

SHIPPED: Between 9-17-58 and 1-2-59, from Andersonville, Ga., by Easterlin Packing Co.

LABEL IN PART: "Flint River Yellow Freestone Mixed Pieces and Halves of Irregular Sizes and Shapes, Peaches in Heavy Syrup, Packed by Easterlin Packing Company, Andersonville, Georgia."

LIBELED: 3-27-59, N. Dist. Tex.

CHARGE: 403(g) (2)—when shipped, the article purported to be and was represented as canned peaches, a food for which a definition and standard of identity has been prescribed by regulations, and its label failed to bear, as required by regulations, the correct name of the optional peach ingredient since the label bore the statement: "Mixed Pieces and Halves of Irregular Sizes and Shapes"; and since the label bore the statement: "In Heavy Syrup," whereas the article was packed in a medium designated by the regulations as "Light Syrup"; and 403(h) (1)—the quality of the article fell below the standard of quality for canned peaches since all peach units of the article tested in accordance with the method prescribed in such standard were not pierced by a weight of not more than 300 grams and the label failed to bear, as specified by the regulations, a statement that it fell below such standard.

DISPOSITION: 10-2-59. Consent—claimed by Easterlin Packing Co. Segregated; 267 cases relabeled as substandard and 15 cases destroyed.

28655. Canned sliced peaches. (F.D.C. No. 47924. S. No. 13-500 T.)

QUANTITY: 896 cases, each containing 24 1-lb. 14-oz. cans, at Chicago, Ill.

SHIPPED: 5-18-62 and 5-31-62, from San Jose, Calif., by Sun Garden Packing Co.

LABEL IN PART: (Can) "Raggedy Ann Elberta Shortcake Slices Peaches Yellow Freestone Extra Heavy Syrup * * * Raggedy Ann Corporation Distributors Chicago."

LIBELED: 7-30-62, N. Dist. Ill.

CHARGE: 403(h)(2)—when shipped, the article fell below the standard of fill of container for canned peaches since there was not present in the container the maximum quantity of the optional peach ingredients which could be sealed in the container and processed by heat so as to prevent spoilage, without crushing or breaking such ingredients, and its label failed to bear a statement that it fell below the standard.

DISPOSITION: 9-20-62. Consent—claimed by Sun Garden Packing Co. and relabeled.

MISCELLANEOUS FRUIT PRODUCTS**28656. Apple juice.** (F.D.C. No. 42967. S. No. 42-674 P.)

QUANTITY: 153 cases, each containing 12 cans, at Billings, Mont.

SHIPPED: 2-7-59, from Selah, Wash., by Charbonneau Packing Corp.

LABEL IN PART: (Can) "Charbonneau Tree Top Brand Apple Juice, Charbonneau Packing Corporation, Yakima and Wenatchee, Washington."

LIBELED: 4-7-59, Dist. Mont.

CHARGE: 402(a)(3)—consisted in whole or in part of a filthy and decomposed substance by reason of the use in its manufacture of wormy and rotten apples.

DISPOSITION: On 5-1-59, a default decree was entered condemning the article and ordering its destruction. On 5-6-59, the packer moved to set aside the default decree, and to consolidate the action for trial with a case then pending in the District of Idaho. The default decree was stayed on 5-6-59, and set aside on 7-16-59. On 8-6-59, the Government and claimant stipulated and it was so ordered by the court that the claimant would withdraw its appearance and its motion to consolidate the cases. The article was destroyed.

28657. Cherry juice product. (F.D.C. No. 48324. S. No. 47-030 V.)

QUANTITY: 167 cases, 12 1-qt. btls. each, at Van Buren, Ark., in possession of Ruby's Jams & Jellies.

SHIPPED: The cherry juice component was shipped in bulk on 7-28-62, from Sodus, Mich.

LABEL IN PART: (Btl.) "Ruby's Cherry Cider made from Red Ripe Cherries, by Ruby Bryant, Van Buren, Ark."

RESULTS OF INVESTIGATION: The article was manufactured by the dealer from cherry juice to which sugar and water were added.

LIBELED: 10-12-62, W. Dist. Ark.

CHARGE: 403(a)—while held for sale, the name "cherry cider" was false and misleading as applied to a product consisting of cherry juice, water, and sugar; and 403(i)(2)—the label failed to declare the ingredients, cherry juice, water, and sugar.

DISPOSITION: 11-26-62. Consent—claimed by Ruby's Jams & Jellies, and re-labeled.

28658. Glaced fruit and fruit peel. (F.D.C. No. 48272. S. Nos. 9-661/3 V, 9-665 V, 9-671/3 V.)

QUANTITY: 1,500 lbs. of citron, 1,500 lbs. of mixed fruit, 8,400 lbs. of orange peel, 700 lbs. of grapefruit peel, and 2,500 lbs. of citron melon, at North East, Pa., in possession of Ohio Fruit Products Co., Inc.

SHIPPED: Between 9-9-61 and 10-5-62, from Lakeland, Winter Haven, and unknown places in Florida, and from Sunnyvale, Calif.

LIBELED: 11-5-62, W. Dist. Pa.

CHARGE: 402(a)(3)—contained insects and insect fragments; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 11-27-62. Default—destruction.

28659. Strawberry topping. (F.D.C. No. 48093. S. No. 77-371 T.)

QUANTITY: 10 cases, 6 ½-gal. jars each, at Asheville, N.C., in possession of Crown Jewel Corp.

SHIPPED: Strawberry ingredient of the article shipped 4-25-62, from San Antonio, Tex., and color ingredient shipped between 1-22-59 and 5-25-60, from New York, N.Y.

LABEL IN PART: (Jar) "Crown Jewel Strawberry Topping Strawberries, Sugar, Corn Syrup, 1/10 of 1% Sodium Benzoate, Certified Color, Citric Acid. Manufactured by The Crown Jewel Corporation, Asheville, N.C."

RESULTS OF INVESTIGATION: The article was prepared and packed by the dealer from various ingredients shipped as above. Examination showed that the article contained External D&C Red No. 15, a color which as FD&C Red No. 1 had been delisted from Section 8.501(a) of the provisional list of color additives, Color Additives Amendment of 1960, and certificate for which had been canceled.

LIBELED: 9-7-62, W. Dist. N.C.

CHARGE: 402(c)—while held for sale, the article contained a color additive, namely, External D&C Red No. 15 (formerly FD&C Red No. 1), which was unsafe within the meaning of Section 706(a) since its use or intended use in food was not in conformity with a regulation or exemption in effect pursuant to 706; and 403(a)—the label statement "Certified Color" was false and misleading for an article containing a color additive, namely, External D&C Red No. 15, for which certification was not effective for use in food.

DISPOSITION: 11-2-62. Default—destruction.

VEGETABLES AND VEGETABLE PRODUCTS

28660. Cabbage. (F.D.C. No. 48335. S. No. 33-008 V.)

QUANTITY: 419 50-lb. bags, at Fort Smith, Ark.

SHIPPED: 10-16-62, from Hayward, Minn., by Noland Bros.

LABEL IN PART: (Bag) "New Cabbage Produce of U.S.A."

LIBELED: 10-23-62, W. Dist. Ark.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, namely, endrin, which was

unsafe within the meaning of 408(a), since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on cabbage had been prescribed by regulations.

DISPOSITION: 11-2-62. Consent—destruction.

28661. Dried corn. (F.D.C. No. 48001. S. No. 60-659 T.)

QUANTITY: 23 100-lb. bags at Bluffton, Ind.

SHIPPED: 6-1-62, from Avery, Ohio.

LIBELED: 8-27-62, N. Dist. Ind.

CHARGE: 402(a)(3)—contained insects, insect larvae, and insect pupae while held for sale.

DISPOSITION: 12-10-62. Default—destruction.

28662. Dried soybeans. (F.D.C. No. 48351. S. No. 45-630 V.)

QUANTITY: 98,600 lbs., at Mobile, Ala.

SHIPPED: 10-19-62, from Holcomb, Mo., by Houston Feed & Coal Co.

LIBELED: 11-8-62, S. Dist. Ala.

CHARGE: 402(a)(1)—when shipped, the article contained a poisonous and deleterious substance, namely *Crotalaria* seeds.

DISPOSITION: 11-19-62. Consent—claimed by B. C. Christopher & Co., Kansas City, Mo. Segregated; 780 lbs. destroyed.

28663. Dried red beans. (F.D.C. No. 47859. S. Nos. 50-556/7 R.)

INFORMATION FILED: 11-7-62, E. Dist. Wash., against Northwest Pea & Bean Co., Inc., Spokane, Wash., and Harold J. Roffler, president.

SHIPPED: 6-22-61, from Olds Station, Wash., to Buhl, Idaho.

LABEL IN PART: (Bag) "QUINCY WASHINGTON BEANS SMALL RED PACKED BY MID-VALLEY WAREHOUSE CO. QUINCY, WASH. 100 LBS. NET."

CHARGE: 402(a)(2)(B)—the article was a raw agricultural commodity and, when shipped, contained a pesticide chemical, namely, dieldrin, which was unsafe within the meaning of 408(a) since the quantity of dieldrin in and on the article was in excess of the zero tolerance for dieldrin in and on beans as prescribed by regulations.

PLEA: Guilty.

DISPOSITION: 1-22-63. Corporation—\$1,000 fine, and \$500 suspended fine; individual—\$150 fine, and \$250 suspended fine.

28664. Great Northern beans and dried pinto beans. (F.D.C. No. 48295. S. Nos. 83-597/98 T.)

QUANTITY: 10 bags of Great Northern beans, and 19 bags of pinto beans, at Russellville, Ark., in possession of M-K Grocer Co.

SHIPPED: Between 3-28-61 and 8-27-62, from Denver, Colo.

LIBELED: 10-4-62, E. Dist. Ark.

CHARGE: 402(a)(3)—contained insects, insect larvae, insect pupae, insect parts, and insect excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 12-3-62. Default—delivered to a charitable institution for use as animal feed.

28665. Canned cut green beans. (F.D.C. No. 47806. S. Nos. 63-468 T, 70-464 T.)

QUANTITY: 338 cases, each containing 24 15½-oz. cans, at Minneapolis, Minn.

SHIPPED: Between 5-28-62 and 6-19-62, from Chippewa Falls, Wis., by Chippewa Canning Co., Inc., and American Farms Cooperative, Inc.

LABEL IN PART: (Can) "Shamrock Real-Fine Cut Green Beans * * * Food Guild Corporation Distributors Evanston, Ill."

LIBELED: 7-23-62, Dist. Minn.

CHARGE: 403(h)(1)—when shipped, the article fell below the standard of quality for canned cut green beans, since the deseeded pods of the article contained more than 0.15 percent by weight of fibrous material, and its label failed to bear, as required by regulations, a statement that it fell below such standard.

DISPOSITION: 8-23-62. Consent—claimed by Chippewa Canning Co., Inc., and relabeled.

28666. Canned mushrooms. (F.D.C. No. 48073. S. No. 62-700 T.)

QUANTITY: 23 cases, each containing 24 cans, at Nashua, N.H.

SHIPPED: 5-7-62 and 7-10-62, from Ravena, N.Y., by Fran Mushroom Co., Inc.

LABEL IN PART: (Can) "Mushrooms by Frangella Buttons * * * Net Drained Wt. 4 Oz. Avoir. Packed by Fran Mushroom Co., Inc., Ravena, N.Y."

RESULTS OF INVESTIGATION: Examination showed that the article was short drained weight.

LIBELED: 9-5-62, Dist. N.H.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents; and 403(h)(2)—the article fell below the standard of fill of container for canned mushrooms, since the weight of drained mushrooms in its container designated in the trade as 211 x 212, having the overall dimensions of the sealed can as 2¹¹/₁₆ inches in diameter and 2¾ inches in height, was less than 4 oz.; and its label failed to bear, as required by regulations, a statement that it fell below such standard.

DISPOSITION: 10-23-62. Consent—claimed by Fran Mushroom Co., Inc., and relabeled.

28667. Canned mushrooms. (F.D.C. No. 47412. S. No. 68-251 T.)

QUANTITY: 273 cases, each containing 12 jars, at Chicago, Ill.

SHIPPED: 1-5-62, from Niles, Mich., by Michigan Mushroom Co.

LABEL IN PART: (Jar) "Dawn Fresh Sliced Mushrooms Serving Suggestions * * * Net Drained Wt. 4½ Oz. Avoir. Salt Added Distributed by Dawn Fresh Co. Le Sueur, Minn. a Subsidiary of Green Giant Co."; (case) "12 4½ Oz. Jars Dawn Fresh Sliced Mushrooms."

RESULTS OF INVESTIGATION: Examination showed that the distributor's name and address and the quantity of contents statement were printed on an intermediate panel of the label in very small type on a highly reflective background, with reflective ink, making it difficult to read.

LIBELED: 3-22-62, N. Dist. Ill.

CHARGE: 403(f)—when shipped, the information required to appear on the label under 403(e), namely, (1) the name and place of business of the distributor, and (2) the quantity of contents statement, was not prominently

placed on the label with such conspicuousness (as compared with other words and statements on the label) as to render such information likely to be read by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 8-30-62. Consent—claimed by Dawn Fresh Co. and relabeled.

28668. Canned okra, tomatoes, and corn. (F.D.C. No. 48035. S. No. 60-345 T.)

QUANTITY: 38 cases, 24 cans each, at Tupelo, Miss.

SHIPPED: 7-5-62, from Cullman, Ala., by King-Pharr Canning Operations, Inc.

LABEL IN PART: (Can) "Blue Plate Okra, Tomatoes, and Corn * * * Net Weight 15½ oz. avoirdupois."

LIBELED: 9-20-62, N. Dist. Miss.

CHARGE: 402(a) (3)—when shipped, contained moldy and decomposed material.

DISPOSITION: 11-19-62. Default—destruction.

28669. Canned spinach. (F.D.C. No. 48252. S. No. 81-771 T.)

QUANTITY: 198 cases, each containing 6 cans, at Trenton, N.J.

SHIPPED: Between 5-1-62 and 5-31-62, from Van Buren, Ark.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing progressive decomposition.

LIBELED: 11-2-62, Dist. N.J.

CHARGE: 402(a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 12-20-62. Default—destruction.

28670. Canned sweetpotatoes. (F.D.C. No. 47699. S. No. 38-767 T.)

QUANTITY: 28 cases, each containing 24 1-lb. 13-oz. cans, at Meridian, Miss.

SHIPPED: 5-22-62, from New Iberia, La., by Bruce's Foods Co.

LABEL IN PART: (Can) "Soileau Brand Louisiana Yams Sweet Potatoes Whole and Cut in Syrup Packed by Soileau Foods, Inc., New Iberia, La."

RESULTS OF INVESTIGATION: Examination showed that the article consisted only of cut pieces of sweetpotato.

LIBELED: 7-3-62, S. Dist. Miss.

CHARGE: 403(a)—when shipped, the name of the article "Louisiana Yams Sweet Potatoes Whole and Cut" and the label vignette depicting 2 whole sweetpotatoes with 4 large pieces was false and misleading as applied to a product containing no whole potatoes, and consisting only of cut pieces.

DISPOSITION: 8-24-62. Default—delivered to charitable institutions.

28671. Potatoes. (F.D.C. Nos. 48041, 48042. S. Nos. 85-343 T, 85-687 T.)

QUANTITY: 850 100-lb. bags, at Oakland, Calif.

SHIPPED: 9-7-62, from Notus and Caldwell, Idaho, by J. C. Palumbo Produce Co., Inc., and J. R. Simplot Co.

LABEL IN PART: (Bag) "Idaho Pointer Brand Potatoes Packed in Idaho by Simplot Eastern Idaho Produce Inc., Blackfoot, Idaho" and "Desert Rose Brand Idaho Potatoes Grown and Packed by J. C. Palumbo Produce Co., Caldwell, Idaho."

LIBELED: 9-24-62, N. Dist. Calif.

CHARGE: 402(a) (2) (B)—the article was a raw agricultural commodity and, when shipped, contained pesticide chemicals, namely, aldrin and dieldrin,

which were unsafe within the meaning of 408(a) since the quantity of such pesticide chemicals on the article was not within the limits of the tolerance prescribed by regulations.

DISPOSITION: 10-3-62. Consent—destruction.

28672. Potatoes. (F.D.C. No. 48031. S. No. 51-297 T.)

QUANTITY: 660 bags, each containing 5 10-lb. bags, at Milwaukee, Wis.

SHIPPED: 9-4-62, from Payette, Idaho, by Lynn Josephson Produce.

LABEL IN PART: (Bag) "U.S. No. 1 Taube's Gilt-Edge Idaho Potatoes."

LIBELED: 9-13-62, E. Dist. Wis.

CHARGE: 402(a)(2)(B)—the article was a raw agricultural commodity and, when shipped, contained pesticide chemicals, namely, aldrin and dieldrin, which were unsafe within the meaning of 408(a) since the quantity of such pesticide chemicals on the article was not within the limits of the tolerance prescribed by regulations.

DISPOSITION: 10-10-62. Default—destruction.

28673. Pickles. (F.D.C. No. 48050. S. No. 79-771 T.)

QUANTITY: 160 bushels at Minneapolis, Minn.

SHIPPED: 8-30-61, from Wautoma, Wis.

RESULTS OF INVESTIGATION: The article was shipped as fresh cucumbers, and was subsequently placed in brine.

LIBELED: 10-3-62, Dist. Minn.

CHARGE: 402(a)(3)—contained insect parts and maggots while held for sale.

DISPOSITION: 11-13-62. Consent—claimed by Pa Wray Pickle Co., Minneapolis, Minn. Segregated and reconditioned; approximately 20 bushels destroyed.

28674. Sweet mixed pickles. (F.D.C. No. 47934. S. No. 71-171 T.)

QUANTITY: 10 cases, 12 16-oz. jars each, at Tulsa, Okla.

SHIPPED: 5-7-62 and 6-4-62, from Garland, Tex., by Craddock Foods, Div. of Morton Foods.

LABEL IN PART: (Jar) "Crispy One Pint Sweet Mixed Pickles * * * Mfg. By Garland Foods Co., Garland, Texas."

LIBELED: 8-9-62, N. Dist. Okla.

CHARGE: 402(a)(3)—contained insects, insect parts, and rodent hair fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 9-26-62. Default—destruction.

28675. Relishes. (F.D.C. No. 48360. S. Nos. 2-623/5 V.)

QUANTITY: 38 cases, each containing 12 jars of hot chow chow, 58 cases, each containing 12 jars of green tomato relish, and 18 cases, each containing 12 jars of mild chow chow, at Nashville, Tenn.

SHIPPED: 10-23-62, from Atlanta, Ga., by Mountain Farm Products, Inc.

LABEL IN PART: (Jars) "Mountain Farm Old Fashioned Hot Chow Chow [or "Green Tomato Relish" or "Old Fashioned Mild Chow Chow"] * * * Mountain Farm Products * * * Atlanta, Ga. Contents 1 Pint."

RESULTS OF INVESTIGATION: Examination showed that the articles were short in volume.

LIBELED: 11-16-62, M. Dist. Tenn.

CHARGE: 403(e) (2)—when shipped, the articles failed to bear labels containing an accurate statement of the quantity of contents.

DISPOSITION: 11-29-62. Consent—delivered to charitable organizations.

28676. Potato salad and cole slaw. (F.D.C. No. 48260. S. Nos. 40-172/3 V.)

QUANTITY: 142 cases, each containing 12 jars of potato salad, and 106 cases, each containing 12 jars of cole slaw, at Elizabeth, N.J.

SHIPPED: 10-10-62, from Baltimore, Md., by Manor Hill Salad Co., Inc.

LABEL IN PART: (Jar) "1 Lb. Net Weight Manor Hill Potato Salad * * *
Mf'd by Manor Hill Salad Co., Inc., Balto., Md." and "15 Oz. Net Weight
Manor Hill Cole Slaw * * * Mf'd by Manor Hill Salad Co., Inc., Balto., Md."

RESULTS OF INVESTIGATION: Examination showed that the articles were short weight.

LIBELED: 11-1-62, Dist. N.J.

CHARGE: 403(e) (2)—when shipped, the articles failed to bear labels containing accurate statements of the quantity of their contents.

DISPOSITION: 12-12-62. Default—destruction.

TOMATOES AND TOMATO PRODUCTS

28677. Canned tomatoes. (F.D.C. No. 47296. S. No. 49-884 T.)

QUANTITY: 3,997 cases, 24 1-lb. cans each, at Tracy, Calif.

SHIPPED: 11-22-61, from Williamsburg, Md., by Williamsburg Canning Co., Inc.

LABEL IN PART: (Can) "Pine Cone Brand Peeled Tomatoes * * * Albert W.
Sisk and Son Distributors * * * Preston, Md."

LIBELED: 4-11-62, N. Dist. Calif.

CHARGE: 402(a) (3)—contained *Drosophila* fly eggs and maggots when shipped.

DISPOSITION: 7-6-62. Consent—claimed by Williamsburg Canning Co., Inc.
Segregated; 1,093¾ cases destroyed.

28678. Canned tomatoes. (F.D.C. No. 48046. S. Nos. 84-051/2 T.)

QUANTITY: 125 cases, 24 1-lb. cans each, at Joplin, Mo.

SHIPPED: 8-27-62, from Rogers, Ark., by Rogers Vinegar Co.

LABEL IN PART: (Can) "Rogers Brand Tomatoes * * * Packed by Rogers Vine-
gar Co., Rogers, Ark."

LIBELED: 9-28-62, W. Dist. Mo.

CHARGE: 403(h) (1)—when shipped, the quality of the article fell below the
standard of quality for canned tomatoes due to excessive peel.

DISPOSITION: 11-19-62. Default—destruction.

28679. Canned tomatoes. (F.D.C. No. 48355. S. No. 216 V.)

QUANTITY: 98 cases, 24 1-lb. cans each, at Haddock, Ga.

SHIPPED: 9-11-62, from Fort Pierce, Fla., by Sunrise Products, Inc.

LABEL IN PART: (Can) "Ga-Red Brand Tomatoes, * * * Distributed by Chero-
kee Products Co., Haddock, Ga."

LIBELED: 11-9-62, M. Dist. Ga.

CHARGE: 402(a)(3)—when shipped, contained *Drosophila* fly eggs and maggots.

DISPOSITION: 12-10-62. Default—destruction.

28680. Pizza sauce (tomato product). (F.D.C. No. 48307. S. No. 46-268 V.)

QUANTITY: 5,823 cases, each containing 6 6-lb. 9-oz. cans, at Joplin, Mo.

SHIPPED: Between 5-2-62 and 6-8-62, from Escalon, Calif.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing chemical decomposition.

LIBELED: 10-10-62, W. Dist. Mo.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 11-28-62. Default—destruction.

28681. Pizza sauce (tomato product). (F.D.C. No. 48267. S. No. 40-215 V.)

QUANTITY: 261 cases, each containing 6 cans, at Mount Vernon, N.Y.

SHIPPED: 9-21-62, from Vineland, N.J., by La Primadora Food Products, Inc.

LABEL IN PART: (Can) "La Parisina Brand Net Weight 6 Lbs. 6 Oz. Italian Style Pizza Sauce * * * Distributors Parisi Bros., Inc., Mt. Vernon, N.Y."

LIBELED: 11-2-62, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained insect parts, *Drosophila* fly eggs, and maggots; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 12-17-62. Default—destruction.

NUTS AND NUT PRODUCTS

28682. Frozen coconut. (Inj. No. 422.)

COMPLAINT FOR INJUNCTION FILED: 12-27-61, N. Dist. Ga., against Coral F. Campbell, t/a Convenient Foods Co., Atlanta, Ga., and Graham S. Hasty, plant manager.

CHARGE: The complaint alleged that the defendants were engaged in the business of preparing both retail and institutional sized packages of frozen coconut from (1) a bulk supply of imported partially grated frozen coconut and (2) raw whole coconuts; that essentially, the process consisted of peeling raw whole coconuts, with subsequent washing in plain water, grinding, packaging, and freezing the coconut meat; that the bulk frozen coconut, consisting of 15-pound blocks of partially shredded coconut meat, was imported from the firm's plant in Kingston, Jamaica; and that such bulk coconut was subjected to further regrinding, packaging, and freezing at a plant in Atlanta, Ga.

It was alleged further that an inspection on 9-29-61, and 10-2-61, by inspectors of the Food and Drug Administration disclosed that coconut meat was being handled and processed under extremely insanitary conditions; that the inspectors reported that the plant itself was an old, somewhat dilapidated, concrete-block building with most of the windows devoid of glass, and with some openings closed with cardboard or loosely fitting wood boards; that many holes and cracks in the structure were noted by the inspectors; that these permitted the entrance into the plant of rats, field mice, small animals and insects, e.g., on two separate occasions live rats were seen in the plant, and thousands of rodent droppings were noted throughout the entire plant, including the immediate vicinity of the manufacturing area; that flies moved freely from such filth as dog excreta immediately outside the plant, from rodent excreta inside the plant, and from other filth, to the exposed coconut meats;

that old, encrusted coconut residue was seen by the inspectors on equipment surfaces, walls, and floors; and that some of this material was noted falling into the freshly prepared product prior to packaging.

It was alleged further that at the termination of the inspection, the following specific objectionable conditions were listed in writing and were discussed with the defendants, namely:

1. Unscreened door in north wall of manufacturing room opening to outer driveway, remained open throughout the inspection. Over 50 flies were seen in the immediate area of the doorway.

2. All employees in the manufacturing area, 9 female and 3 male, without head covering of any kind.

3. One live rat was seen on two separate occasions in the area of the empty box storage room. This area opens directly into manufacturing room.

4. Peeled, unwashed, raw coconuts allowed to remain in uncovered metal containers; washed, raw coconut halves remain in uncovered wire baskets prior to grinding; frozen, grated coconut allowed to remain in uncovered metal pans prior to packaging.

5. Six live green flies were seen crawling on the surface of peeled, unwashed, raw coconuts in metal containers.

6. In at least 3 instances live flies were seen crawling on the surface of frozen, grated coconut ready for packaging.

7. An estimated 500 rat excreta pellets were on the floor in the southwest corner immediately behind the freezer. At least 75 rat excreta pellets were on the floor in the southeast corner of the same room (manufacturing room). Hundreds of additional rat excreta pellets were noted along the bases of the north and south walls of the same room.

8. Sugar noted stored in an uncovered metal container; one dead fly was found lying on the surface of this sugar.

9. Accumulations of encrusted coconut particles and unidentified debris noted on the following:

(a) On framework of wheeled racks used to hold uncovered pans of frozen, grated coconut ready for packaging.

(b) Under and around the edges of the metal drain on which wire baskets of washed, peeled, coconut halves are held prior to grinding.

10. In the southeast corner of the manufacturing room concrete floors broken and filled with debris. Stagnant water, encrusted accumulations of coconut particles, in accumulated floor filth up to one inch in depth in an area estimated 6 feet by 3 feet in size at this point. Foul smell permeates entire area of manufacturing room. At least 24 live *Drosophila* flies, at least 12 unidentified live moths, and live unidentified insect larvae noted on and around the floor and walls in this area.

11. One live honey bee on the window on the north side of the manufacturing room in the area of the metal drain for washed, peeled, coconut halves.

12. An estimated 2' x 4' drain at floor level in southeast corner of manufacturing room; drain opens into adjoining dirt-floored "junk" room about 2 feet above ground level. Countless thousands of rat excreta pellets were noted throughout piles of accumulated burlap bags, rubber tires, wire, wooden boxes, empty soft-drink bottles, etc., in this "junk" room. At least 6 rodent burrows were noted in ground in southeast corner of this room. This room is constructed of sheet metal with holes opening to the outside; one ill-fitting door in the north wall noted to have 3 feet long crack at its base tapering from an estimated 1½" to an estimated 3½" in height; about a 2" high open-

ing exists all along the length of the same door at its top; and an approximate 2'' diameter opening was noted in the southeast corner of the room where sheet metal is bent. Foul odor and accumulations of damp, coconut residue and other filth were present in south half of this room.

13. At least 10 rat excreta pellets in each of 3 locations in one box storage room and at least 10 more in 1 location in another box storage room.

14. One dead unidentified adult beetle noted on wooden floor of one box storage room.

15. Window pane broken out in window leading to outside of toilet, the door to which remained open during the inspection except when toilet was in use. Door to this toilet only about 10 feet from manufacturing area.

16. One of 2 toilets had no soap available for employees' use; female employees observed packaging coconut with their bare hands.

17. Unprotected fluorescent light fixture overhead of uncovered pans of frozen grated coconut ready for packaging. Particles of broken glass—apparently soft drink bottles—on wooden platform holding unused coconut peeling machine along south wall of manufacturing room.

18. Dense vegetation—over 3 feet in height in most places—along and against entire south wall of building exterior.

19. Dog excreta on concrete on exterior at east end of "junk" storage room with at least 36 ants crawling over it and entering the building beneath the sheet metal wall.

It was alleged further that during this inspection, the inspectors collected samples of the raw, imported coconut, whole coconuts, and finished product in various sized packages; that, in addition, samples of the finished product were collected from interstate shipments made to Greenville and Columbia, S.C.; that this product was produced during the week of the inspection; and that laboratory analysis of these samples disclosed the following results:

(a) Coconut meat, removed from whole coconuts in the laboratory, revealed such coconut meat to be commercially sterile, that is, no coliform, no salmonella, and no staphylococcus organisms were found and with only a total bacterial count ranging from 10 to 37 organisms per gram.

(b) Shredded bulk coconut, originally prepared at the firm's plant in Kingston, Jamaica, disclosed coliform organisms ranging from 430 to 11,000 per gram, coagulase positive staphylococcus, salmonella organisms and total bacterial counts ranging from 310,000 to 610,000.

(c) Samples of the finished product collected at the Atlantic Company Warehouse, Atlanta, Ga. (stored to the account of Convenient Foods Company), showed the presence of coliform organisms ranging from 390 to 4,600 per gram; staphylococcus organisms and total bacterial counts all over 3,000,000 per gram.

(d) Samples of the finished product collected from interstate shipments made by defendants to Greenville and Charleston, S.C., and Charlotte, N.C., revealed the presence of fecal *E. coli*, food poisoning strains of salmonella organisms, and total bacterial counts running as high as 3,000,000 to 4,000,000 organisms per gram.

It was alleged also that the finished coconut product processed at the Piedmont Avenue plant of the defendants and stored elsewhere in Atlanta, Ga., consisted more or less of the following:

(a) 1,832 cases, each containing 12 4-oz. pkgs. labeled in part "Tropic Isle Fresh Coconut Frozen Grated—Fresh Coconut Grated as you would prepare at home—Convenient Foods Company, Atlanta, Ga."

(b) 693 cases, each containing 12 9-oz. pkgs. labeled in part "Calypso Grated Frozen Fresh Coconut—Fresh Coconut with all nature's goodness left in ready to use—Convenient Foods Company, Atlanta, Ga."

(c) 25 cases, each containing 10 5-lb. pkgs., labeled in part "Tropic Isle Brand Frozen Fresh Grated Coconut—Convenient Foods Company, Atlanta, Ga."

(d) 23 cases, each containing 10 5-lb. pkgs., labeled in part "Frosty Acres Fresh Frozen Grated Coconut—Packed For The Frozen Food Forum, Inc., Atlanta, Ga."

(e) 48 cases, each containing 12 6-oz. pkgs. labeled in part "Frosty Acres Fresh Frozen Grated Coconut—Packed For The Frozen Food Forum, Inc., Atlanta, Ga."

It was alleged further that the above stocks of frozen coconut which were intended to be shipped in interstate commerce constituted a menace to interstate commerce because they had been prepared, packed, and held under insanitary conditions whereby they may have been contaminated with filth; that the defendants were well aware that their activities were in violation of the Act; and that, despite the warnings conveyed to the defendants, they had continued to introduce into interstate commerce such food which was adulterated as specified above.

DISPOSITION: On 12-27-61, a temporary restraining order was entered enjoining the defendants against the acts complained of. On 1-2-62, the defendants having consented, the court entered a decree of temporary injunction. Such decree temporarily enjoined and restrained the defendants from doing the following acts:

(a) Introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, food consisting of grated coconut, or other similar food which has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth.

(b) Introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, the frozen coconut stored to the account of Convenient Foods Co. at a warehouse, 436 Decatur St., S.E., Atlanta, Ga., which coconut was produced at the defendants' plant at 441 Piedmont Ave., N.E., Atlanta, Ga., and consisting of the various cases of frozen grated coconut enumerated in the complaint.

(c) Causing any food after its shipment in interstate commerce, to be held or processed at defendants' plant at 441 Piedmont Ave., N.E., Atlanta, Ga., under insanitary conditions whereby such food may become contaminated with filth.

(d) Introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, any food, which is being or has been prepared, packed, and held at defendants' plant at 441 Piedmont Ave., N.E., Atlanta, Ga., unless and until:

(i) The plant is thoroughly cleaned and rendered suitable for use in connection with the preparation, packing, and holding of food for human consumption, to wit, unless and until all rodent and insect filth is removed from said plant, and the equipment used in the preparation, packing, and storing of said food is cleaned and made suitable for use in the preparation, packing, and storage of food for human consumption, including adequate coverings for containers; all rodent and insect infestation in said plant is eliminated; adequate toilet, soap, and other facilities are provided for employees; the

means of ingress and egress by rodents and insects are eliminated, and the conditions which serve as focal points of bacterial contamination are eliminated; and any similar insanitary conditions which may result in the contamination of food for human consumption while prepared, packed, and held are eliminated.

(ii) All of the food on hand at said plant at 441 Piedmont Ave., N.E., Atlanta, Ga., at the time said plant is cleaned and rendered suitable for the preparation, packing and storage of food for human consumption is destroyed, denatured, for use as animal feed, or cleaned, segregated, or otherwise reconditioned under the supervision of duly authorized representative of the Food and Drug Administration, Department of Health, Education, and Welfare, and all expenses of such supervision are paid by the defendants.

(iii) An inspection is made of the plant at 441 Piedmont Ave., N.E., Atlanta, Ga., by a duly authorized representative of the Food and Drug Administration, Department of Health, Education, and Welfare, and a report made to the court which shows that the above-described or any similar insanitary condition no longer exists, and that the food for human consumption described in subparagraph (ii) above has been destroyed, denatured, or brought into compliance with the law, as provided by such subparagraph (ii).

On 8-1-62, it appeared to the court that the defendants had discontinued the processing of food within the jurisdiction of the Northern District of Georgia, and the United States, and the court ordered that the injunction be dissolved and that the complaint be dismissed.

28683. Chestnuts. (F.D.C. No. 46901. S. No. 27-200 T.)

QUANTITY: 29 55-lb. bags, at Wichita, Kans.

SHIPPED: 10-30-61, from New York, N.Y.

LIBELED: On or about 2-13-62, Dist. Kans.

CHARGE: 402(a)(3)—while held for sale, the article contained insects and decomposed chestnuts.

DISPOSITION: 3-30-62. Default—destruction.

28684. Shelled peanuts. (F.D.C. No. 48097. S. No. 81-440 T.)

QUANTITY: 36 100-lb. bags at Philadelphia, Pa.

SHIPPED: 4-20-62, from Severn, N.C.

LIBELED: 9-14-62, E. Dist. Pa.

CHARGE: 402(a)(3)—contained insects and insect larvae while held for sale.

DISPOSITION: 10-10-62. Consent—claimed by Crescent Nut & Chocolate Co., Philadelphia, Pa. Segregated; 40 lbs. destroyed.

28685. Shelled peanuts and shelled filberts. (F.D.C. No. 48349. S. Nos. 21-747/8 V.)

QUANTITY: 92 60-lb. bags of peanuts and 239 5-lb. boxes of filberts, at Denver, Colo., in possession of Bankers Warehouse.

SHIPPED: Between 4-20-62 and 9-14-62, from Kansas City, Mo., and Salem, Oreg.

LIBELED: 11-5-62, Dist. Colo.

- CHARGE: 402(a)(3)—contained rodent urine (peanuts) and insect pupae (filberts); and 402(a)(4)—held under insanitary conditions (peanuts).
DISPOSITION: 12-19-62. Default—destruction.
- 28686. Shelled Spanish peanuts.** (F.D.C. No. 48293. S. No. 1-606 V.)
QUANTITY: 55 125-lb. bags, at Matthews, N.C., in possession of Trophy Co., Inc.
SHIPPED: 9-4-62, from Moultrie, Ga.
LIBELED: 11-13-62, W. Dist. N.C.
CHARGE: 402(a)(4)—held under insanitary conditions while held for sale.
DISPOSITION: 12-12-62. Consent—claimed by Trophy Co., Inc. Segregated: 9 bags destroyed.
- 28687. Shelled pecans.** (F.D.C. No. 47125. S. Nos. 57-646 R, 45-440 T.)
INFORMATION FILED: 8-6-62, N. Dist. Tex., against Ellis Pecan Co., Inc., Fort Worth, Tex., and Jack C. Ellis, president.
SHIPPED: 1-24-61 and 10-31-61, from Fort Worth, Tex., to Miami, Fla., and Arkadelphia, Ark.
LABEL IN PART: (Ctn.) "Amber Pcs 30# Net Weight" and (bag) "Extra Quality Ellis Pecans Mechanically packed Net Wt. Packed by Ellis Pecan Co. Fort Worth, Texas."
CHARGE: 402(a)(3)—contained *E. coli*; and 402(a)(4)—prepared and packed under insanitary conditions.
PLEA: Nolo contendere.
DISPOSITION: 12-20-62. Corporation—\$1,000 fine; individual—\$200 fine.
- 28688. Pistachio nuts.** (F.D.C. No. 46781. S. No. 6-829 T.)
QUANTITY: 20 cases, each containing 24 pkgs., at Cumberland, R.I.
SHIPPED: 10-31-61, from Boston, Mass., by John Zedros, Inc.
LABEL IN PART: (Pkg.) "Alma Brand Imported Extra Jumbo Pistachio Nuts 6 Oz. Net Weight Packed by John Zedros, Inc. Boston, Mass."
RESULTS OF INVESTIGATION: Examination showed that the article was short weight.
LIBELED: 12-14-61, Dist. R.I.
CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.
DISPOSITION: 10-10-62. Consent—claimed by John Zedros, Inc., and released for relabeling.
- 28689. Shelled black walnuts.** (F.D.C. No. 47659. S. No. 58-748 T.)
QUANTITY: 20 30-lb. cases, at Wichita, Kans.
SHIPPED: 5-4-62, from Verona, Mo., by Spring River Shelling Co.
LABEL IN PART: (Case) "Ozark Brand Black Walnuts Packed and Pasteurized by Spring River Shelling Co. Verona, Mo. Mixed Sizes."
LIBELED: On or about 7-6-62, Dist. Kans.
CHARGE: 402(a)(3)—contained *E. coli* when shipped.
DISPOSITION: 10-2-62. Default—4 cases destroyed and remainder delivered to a public institution for animal feed.

SPICES, FLAVORS, AND SEASONING MATERIALS

28690. Mint flakes, sweet basil, and instant onion. (F.D.C. No. 46678. S. Nos. 93-407 R, 93-414 R, 93-552 R.)

INFORMATION FILED: 4-12-62, E. Dist. Mo., against Jas. H. Forbes Tea & Coffee Corp., St. Louis, Mo.

ALLEGED VIOLATIONS: Between 1-23-61 and 7-17-61, while quantities of mint leaves, sweet basil, and sliced onion were being held for sale after shipment in interstate commerce, the defendant caused the mint to be repackaged into metal cans labeled "Net Wt. $\frac{3}{8}$ Oz." and the sweet basil and onion into glass jars labeled " $\frac{3}{4}$ Oz. Net" and "Net Weight $2\frac{5}{8}$ Oz." respectively, which statements were inaccurate since the containers of the articles were short weight, and which acts caused the articles to be misbranded within the meaning of 403(e) (2).

LABELS IN PART: (Can) "Dehydrated MINT FLAKES Net Wt. $\frac{3}{8}$ Oz."; (jar) "FORBES SWEET BASIL $\frac{3}{4}$ Oz. Net."; (jar) "QUICK; INSTANT ONION Net Weight $2\frac{5}{8}$ Oz."

PLEA: Guilty.

DISPOSITION: On 5-25-62, the defendant filed two motions. One was a motion to dismiss one count of the information, which alleged that the article labeled "Mint Flakes Net Wt. $\frac{3}{8}$ Oz." was misbranded, on the grounds that the information did not contain facts sufficient to constitute an offense against the United States, and on the grounds that under 403(e) (2) exemptions as to small packages may be made by the commissioner and that the commissioner had specifically exempted packages containing less than $\frac{1}{2}$ oz. from the requirements of this section under 21 CFR 1.8(m). The defendant's other motion was one to suppress all evidence obtained by the Government from the premises of the defendant between 7-7-61 and 7-21-61 when Food and Drug Administration inspectors inspected the defendant's plant. On 10-2-62, the court entered an order overruling both of the defendant's motions. On 11-9-62, the defendant was fined \$850, after a plea of guilty.

28691. Mushroom sauce. (F.D.C. No. 48258. S. No. 12-538 V.)

QUANTITY: 98 cases, each containing 24 $5\frac{3}{4}$ -oz. cans, at River Grove, Ill.

SHIPPED: 9-21-62, from Kennett Square, Pa., by Kennett Canning Co.

LABEL IN PART: (Can) "Richelieu Ready To Serve Mushroom Sauce With Sliced Mushrooms Ingredients: * * * Sliced Hothouse Mushrooms * * * Consolidated Foods Corporation Distributors Chicago, Ill."

RESULTS OF INVESTIGATION: Examination showed that the article was a gravy-like sauce containing mushroom pieces $\frac{1}{4}$ inch or less in size.

LIBELED: 10-29-62, N. Dist. Ill.

CHARGE: 402(b) (2)—when shipped, small mushroom pieces had been substituted in whole or in part for mushroom slices; 403(a)—the name of the article, the label vignette depicting mushroom slices, the statement of ingredients, and other statements in the labeling contained false and misleading representations in that they represented that the article contained sliced mushrooms, which was contrary to fact.

DISPOSITION: 11-21-62. Default—destruction.

28692. Spaghetti sauce. (F.D.C. No. 47453. S. Nos. 55-666/9 T.)

QUANTITY: 565 cases, each containing 12 jars of spaghetti sauce with meat flavor, and 382 cases, each containing 12 jars of spaghetti sauce with mushrooms, at Linden, N.J.

SHIPPED: 3-2-62 and 3-5-62, from Syracuse, N.Y., by Ventre Packing Co., Inc.

LABEL IN PART: (Jar) "Enrico's * * * Spaghetti Sauce Net Wt. 1 Lb. 13 Ozs. * * * A Product of Ventre Packing Co., Inc., Syracuse, New York," (case) "Spaghetti Sauce With Meat Flavor," and (jar) "Enrico's * * * Spaghetti Sauce With Mushrooms Net Wt. 1 Lb. 13 Ozs. * * * A Product of Ventre Packing Co., Inc., Syracuse, New York."

RESULTS OF INVESTIGATION: Examination showed the article to be short weight.

LIBELED: 4-17-62, Dist. N.J.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 8-28-62. Consent—claimed by Ventre Packing Co., Inc., Syracuse, N.Y.; repackaged and relabeled.

28693. Vinegar brine. (F.D.C. No. 47898. S. No. 62-265 T.)

QUANTITY: 3,000 gals. in an unlabeled 3,000-gal. storage tank at Swansea, Mass., in possession of Star Pickling Corp.

SHIPPED: Prior to 6-22-62, from Greenville, N.H.

LIBELED: 7-23-62, Dist. Mass.

CHARGE: 402(a)(3)—contained *Drosophila* flies, fly eggs, maggots, and other insects and insect parts; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 9-7-62. Default—destruction.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

28694. Vitamin and mineral tablets and B complex tablets. (F.D.C. No. 47675. S. Nos. 17-726 T, 17-729 T.)

QUANTITY: 104 ctns., each containing 12 60-tablet btls. of vitamin and mineral tablets, and 43 100-tablet btls. of B complex tablets, at Louisville, Ky.

SHIPPED: Between 3-14-58 and 3-15-62, from Long Beach, Calif.

RESULTS OF INVESTIGATION: When examined, the vitamin and mineral tablets contained approximately 67 percent of the declared amount of vitamin B₁, and the B complex tablets, contained 1 mg. folic acid per tablet.

LIBELED: 6-18-62, W. Dist. Ky.

CHARGE: 402(b)(1)—while held for sale, the valuable constituent, vitamin B₁ had been in part omitted or abstracted from the vitamin and mineral tablets; 403(a)—the label statement of the vitamin and mineral tablets "Vitamin B₁ * * * 3 mg." was false and misleading, as applied to a product containing less than the declared amount of vitamin B₁; and 402(a)(2)(C)—the B complex tablets contained a food additive, namely, folic acid, which was unsafe within the meaning of 409 since it and its use or intended use were not in conformity with a regulation or exemption in effect pursuant to 409.

DISPOSITION: 11-9-62. Default—destruction.

28695. Vitamin and mineral capsules. (F.D.C. No. 47794. S. No. 56-978 T.)

QUANTITY: 1 45-capsule btl. and 7 90-capsule btls. at El Paso, Tex.

SHIPPED: 7-16-59 and 8-24-59, from Los Angeles, Calif.

LABEL IN PART: "High Potency Multiple Vitamin and Mineral Dietary Supplement * * * Folic Acid 1 mg."

LIBELED: 7-5-62, W. Dist. Tex.

CHARGE: 402(a)(2)(C)—the article contained a food additive, namely, folic acid, which was unsafe within the meaning of 409 since it and its use or intended use were not in conformity with a regulation or exemption in effect pursuant to 409.

DISPOSITION: 8-28-62. Default—destruction.

28696. Canned tuna (dietetic). (F.D.C. 48121. S. No. 77-948 T.)

QUANTITY: 19 cases, 24 cans each, at Somerville, Mass.

SHIPPED: 7-19-62, from Seattle, Wash., by McGovern & McGovern.

LABEL IN PART: (Can) "Monarch Dietetic Solid Pack White Tuna In Water No Salt Added * * * Net Weight 6½ oz. Avoir * * * Consolidated Foods Corporation Distributors, Chicago, Ill."

LIBELED: 9-26-62, Dist. Mass.

CHARGE: 403(h)(2)—when shipped, the article fell below the standard of fill of container for canned tuna, since the article was in containers designated as 307x113 with the form of tuna ingredient being solid and the average weight of the pressed cake from 24 cans was less than 4.47 ounces and its label failed to bear as the regulations prescribe, a statement that it fell below such standard.

DISPOSITION: 11-5-62. Default—given to a public or charitable institution.

MISCELLANEOUS PRODUCTS

28697. Annatto seed. (F.D.C. No. 48065. S. No. 74-547 T.)

QUANTITY: 50 112-lb. bags at New York, N.Y.

SHIPPED: 12-11-58 and 12-12-58, from Brazil.

LIBELED: 9-4-62, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained insects, insect larvae, and insect cast skins while held for sale.

DISPOSITION: 10-10-62. Default—destruction.

28698. Coumarin. (F.D.C. No. 47722. S. No. 19-042 T.)

QUANTITY: 3 drums at Austin, Tex.

SHIPPED: 2-23-62, from New York, N.Y., by Fritzsche Bros., Inc.

LABEL IN PART: (Drum) "Fritzsche Brothers, Inc. New York * * * D214625786 Item No. 1 25 Lb. 2-23-62."

LIBELED: 7-12-62, W. Dist. Tex.

CHARGE: 402(a)(2)(C)—when shipped, the article consisted of coumarin, a food additive, which was unsafe within the meaning of 409 since it, its use, or intended use were not in conformity with a regulation or exemption in effect pursuant to 409; and 403(i)(1)—the article was coumarin, and its label failed to bear the common or usual name of that food.

DISPOSITION: 8-13-62. Default—destruction.

28699. Noodle soup mix. (F.D.C. No. 47993. S. Nos. 86-902 T, 89-006 T.)
QUANTITY: 30 cases, each containing 24 pkgs., at Detroit, Mich.
SHIPPED: 1-19-62, from Chicago, Ill.
LIBELED: 8-21-62, E. Dist. Mich.
CHARGE: 402(a)(3)—contained insects while held for sale.
DISPOSITION: 10-10-62. Default—destruction.

28700. Super Savoil (antioxidant). (F.D.C. No. 47735. S. No. 30-638 T.)
QUANTITY: 8 cases, 12 12-oz. btls. each, at Los Angeles, Calif.
SHIPPED: 12-4-61, from Atlanta, Ga., by Nu-Way Foods Co.
LABEL IN PART: (Btl.) “NFC Super Savoil with Anti-Foam Action * * * Contains: Vegetable oil, mono and diglycerides ionol, propylene glycol, butylated hydroxyanisole edible anti-foam agent, propyl gallate and citric acid.* * * designed to retard the development of rancidity, extend frying life and prevent foaming of oils and shortening.”
RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 7.2 percent butylated hydroxyanisole and approximately 8.6 percent butylated hydroxytoluene.
LIBELED: 7-17-62, S. Dist. Calif.
CHARGE: 402(a)(2)(C)—when shipped, the article contained food additives, namely, butylated hydroxyanisole, and butylated hydroxytoluene, which were unsafe within the meaning of 409, since their use or intended use were not in conformity with a regulation or exemption in effect pursuant to 409; and 403(i)(2)—the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient, since “mono and diglycerides ionol” and “edible anti-foam agent” are not the common or usual names of any ingredients, and since the label failed to bear a statement that butylated hydroxytoluene was present as an ingredient.
DISPOSITION: 11-9-62. Default—destruction.

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¹(28690) Prosecution contested.
² (28616, 28682) Injunction issued.

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¹(28690) Prosecution contested.²(28616, 28682) Injunction issued.

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² (28616, 28682) Injunction issued.

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Louette Food Products:		Ocean Garden Products, Inc.:	
bread crumbs-----	28602	frozen shrimp-----	28652
McGovern & McGovern:		Ohio Apiaries Coop. Association:	
canned tuna (dietetic)-----	28696	honey-----	28639
M-K Grocer Co.:		Ohio Fruit Products Co., Inc.:	
dried Great Northern beans		glaced fruit and fruit peel---	28658
and dried pinto beans-----	28664	Palumbo, J. C., Produce Co.,	
Madison Cooperative Creamery:		Inc.:	
butter-----	28641	potatoes-----	28671
Magellan (boat):		Paramount Macaroni Manufac-	
frozen perch fillets-----	28649	turing Co., Inc.:	
		egg noodles-----	28615

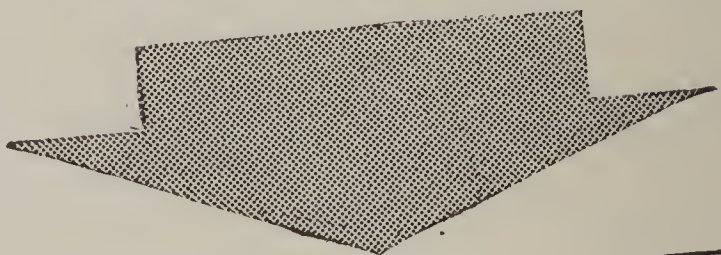
² (28616, 28682) Injunction issued.

Parisi Bros., Inc.:	N.J. No.	Star Pickling Corp.:	N.J. No.
pizza sauce-----	28681	vinegar brine-----	28693
Philadelphia Piers, Inc.:		Sugar Creek Creamery, Div. of	
cocoa beans-----	28627	National Dairy Products	
Quality Frozen Foods:		Corp.:	
frozen shrimp-----	28653	butter -----	28642
Raggedy Ann Corp.:		Sun Garden Packing Co.:	
canned sliced peaches-----	28655	canned sliced peaches-----	28655
Robinson Canning Co., Inc.:		Sunrise Products, Inc.:	
canned shrimp-----	28651	canned tomatoes-----	28679
Roffler, H. J.:		Trophy Co., Inc.:	
dried red beans-----	28663	shelled Spanish peanuts-----	28686
Rogers Vinegar Co.:		Uhlich Elevator Co.:	
canned tomatoes-----	28678	wheat-----	28619
Ruby's Jams & Jellies:		United Biscuit Co. of America:	
cherry juice product-----	28657	cookies-----	28604
Salvati Food Products Co., Inc.:		Universal Sweetheart Candies.	
honey-----	28639	<i>See Skoulas, A. G.</i>	
Simplot, J. R., Co.:		Velzen, B. H.:	
potatoes-----	28671	cookies-----	28604
Simplot Eastern Idaho Produce,		Ventre Packing Co., Inc.:	
Inc.:		spaghetti sauce-----	28692
potatoes-----	28671	Wholesale Grocers, Inc.:	
Sisk, A. W., & Sons:		rolled oats and macaroni-----	28625
canned tomatoes-----	28677	Wilbur-Ellis Co.:	
Skoulas, A. G.:		frozen shrimp-----	28652
candy-----	28629	Wild Duck (boat):	
Soileau Foods, Inc.:		frozen perch fillets-----	28648
canned sweetpotatoes-----	28670	Williamsburg Canning Co., Inc.:	
Sprenger, W. V., Sr.:		canned tomatoes-----	28677
cookies-----	28604	Wolch Nut & Candy Co.:	
Spring River Shelling Co.:		spearmint leaves (candy)-----	28633
shelled black walnuts-----	28689	Zedros, John, Inc.:	
		pistachio nuts-----	28688

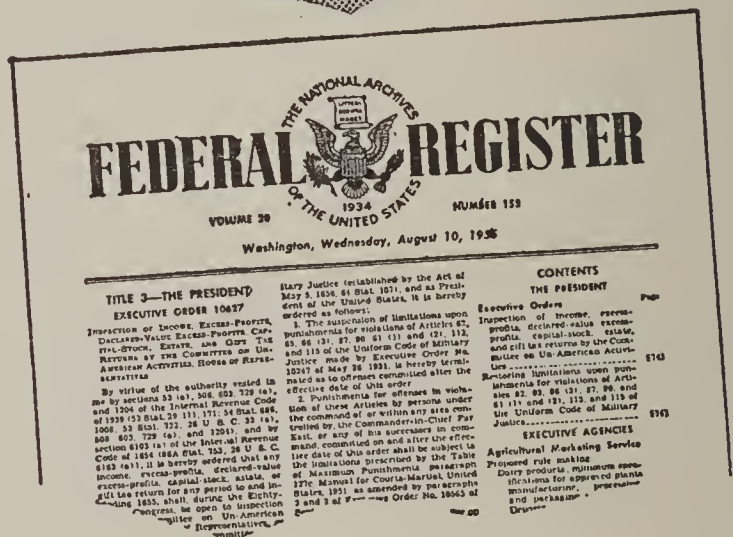
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2NF
U.S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

28701-28800

FOODS

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce, or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered after default, consent, or in one case, summary judgment; (2) criminal proceedings which were terminated upon pleas of guilty and nolo contendere and, in two cases, upon a judgment of guilty after trial by the court; and (3) an injunction proceeding terminated upon the entry of a permanent injunction by consent. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal and injunction proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D.C., *September 18, 1963.*

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*SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F.N.J. NOS. 28701-28800*

Adulteration, Section 402(a)(1), the article contained a poisonous or deleterious substance which might render it injurious to health; Section 402(a)(2)(B), the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408(a); Section 402(a)(2)(C), the article contained a food additive which was unsafe within the meaning of Section 409; Section 402(a)(3), the article consisted in whole or in part of a filthy, putrid, or decomposed substance, or it was otherwise unfit for food; Section 402(a)(4), the article had been prepared, packed, or held under insanitary conditions whereby it might have become contaminated with filth or might have been rendered injurious to health; Section 402(b)(1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b)(2), a substance had been substituted wholly or in part for the article; Section 408(a), a poisonous or deleterious pesticide chemical, or a pesticide chemical not generally recognized, among qualified experts, as safe for use, added to a raw agricultural commodity, was deemed to be unsafe because no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare; or because the quantity of the pesticide chemical in or on the raw agricultural commodity was not within the limits of a tolerance prescribed by the Secretary of Health, Education, and Welfare; and Section 409, a food additive was deemed to be unsafe because the food additive and its use or intended use failed to conform to the terms of an effective exemption or because there was not in effect, or the food additive and its use or intended use failed to be in conformity with, a regulation prescribing conditions for safe use.

Misbranding, Section 403(a), the labeling of the article was false and misleading; Section 403(b), the article was offered for sale under the name of another food; Section 403(e), the article was in package form, and it failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; Section 403(f), a word, statement, or other information required by or under authority of the Act to appear on the label or labeling was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling; and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; Section 403(g), the article purported to be or was represented as a food for which a definition and standard of identity had been prescribed by regulations and (1) it failed to conform to such definition and standard and (2) its label failed to bear the name of the food specified in the definition and standard; Section 403(h)(1), the article purported to be or was represented as a food for which a standard of quality had been prescribed by regulations, and its quality fell below such standard; Section 403(i), the article was not subject to the provisions of Section 403(g) and (1) its label failed to bear the common or usual name of the article; and (2) the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient; Section 403(j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information concerning its vitamin, mineral, and other dietary properties as the Secre-

tary had determined to be, and by regulation prescribed as, necessary in order fully to inform purchasers as to its value for such uses; and Section 403(k), the article contained artificial coloring, or a chemical preservative, and failed to bear labeling stating that fact.

BEVERAGES AND BEVERAGE MATERIALS

28701. Green coffee beans. (F.D.C. No. 48281. S. No. 18-274 V.)

QUANTITY: 141 132-lb. bags at Houston, Tex.

SHIPPED: 9-13-62, from Buenaventura, Colombia.

LIBELED: 11-6-62, S. Dist. Tex.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 12-5-62. Consent—claimed by East Asiatic Co., Inc., New York, N.Y., and reconditioned to remove the unfit material.

28702. Maxwell House instant coffee. (F.D.C. No. 47567. S. Nos. 68-282 T, 68-284 T.)

QUANTITY: 861 $\frac{1}{3}$ cases, 18 10-oz. jars each, at Chicago, Ill., in possession of National Tea Co.

SHIPPED: Between 2-1-62 and 4-24-62, from Houston, Tex., by General Foods Corp.

LABEL IN PART: (Jar) "Giant Economy Size 10 Oz. Instant Maxwell House Coffee * * * Made by Maxwell House Division General Foods Corporation Hoboken, N.J. * * * 10 Oz. Net Wt."

RESULTS OF INVESTIGATION: Investigation showed that the 10-oz. size jars of this article were being sold in the retail stores of the dealer at \$1.44 per jar, or 14.4 cents per ounce, while the 6-oz. jars of the same product were being sold in the same stores at 75 cents per jar, or 12 $\frac{1}{2}$ cents per ounce.

LIBELED: 4-26-62, N. Dist. Ill.

CHARGE: 403(a)—when shipped and while held for sale, the label statement "Giant Economy Size" on the jar labels and on the jar lids of the 10-oz. size jars, was false and misleading since it suggested and implied that it was more economical for the consumer to purchase the article in the 10-oz. size jars than the article in smaller size jars, whereas, it was not more economical for the consumer to purchase the article in the 10-oz. size jars than in smaller size jars, since the cost to the consumer, of the article in 6-oz. size jars sold at the usual retail price in the National Tea Company's retail stores in the Chicago area, was less on a per ounce basis than the cost to the consumer of the article in the 10-oz. jars.

DISPOSITION: 7-27-62. Consent—claimed by General Foods Corp., and National Tea Co., which firms denied that the articles were in violation. They consented to the entry of a consent decree of condemnation, without trial or adjudication of any issue of fact or law, and without admission by any party with respect to any such issue. The articles were relabeled except for 17 broken jars which were destroyed.

28703. Tea. (F.D.C. No. 46106. S. No. 80-605 R.)

QUANTITY: 86 cases, each containing 24 boxes of 48 tea bags each, at Readville, Mass.

SHIPPED: 6-20-61, from Hoboken, N.J., by Standard Brands, Inc.

LABEL IN PART: (Box) "Tender Leaf Brand Orange Pekoe and Pekoe Cut Black Tea 48 Tea Bags Net Weight $3\frac{3}{4}$ Ozs. Packed by Standard Brands Inc. New York, N.Y."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 7-24-61, Dist. Mass.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 11-21-61. Default—ordered destroyed or delivered to a public or charitable institution.

28704. Drink mixes. (F.D.C. No. 47709. S. Nos. 75-438/9 T.)

QUANTITY: 30 cases, 12 1-pt. btls. each, of "Riva Screwdriver Mix," and 30 cases, 12 1-pt. btls. each, of "Riva Collins Mix," at Reno, Nev.

SHIPPED: Between 4-6-62 and 5-9-62, from San Francisco, Calif., by Riva Distributing Co.

LABEL IN PART: (Btl.) "Riva Screwdriver Mix Concentrated Ingredients: Concentrated Orange Juice, Sugar, Water, Citric Acid, Oil of Orange, $\frac{1}{10}$ of 1% Benzoate of Soda, Certified Food Color. * * * Riva Distributing Co., San Francisco, Calif." and "Riva Collins Mix Sweetened Ingredients: Lemon Juice, Oil of Lemon, Citric Acid, Water, Sugar, Vegetable Gum, Certified Food Color, $\frac{1}{10}$ of 1% Benzoate of Soda. * * * Riva Distributing Co., San Francisco, Calif."

RESULTS OF INVESTIGATION: Examination revealed that the quantity of contents statement and the statement of ingredients were inconspicuous due to being printed in gold-colored ink on a highly reflective, colored background.

LIBELED: 7-19-62, Dist. Nev.

CHARGE: 403(f)—when shipped, the information required by 403(e) (2), 403(i) (2), and 403(k), namely, the statement of quantity of contents, and the common or usual name of each ingredient and the declaration of artificial color and a chemical preservative, was not prominently placed on the labels with such conspicuousness (as compared with other words and statements on the labels) as to render such information likely to be read by the ordinary individual under customary conditions of purchase and use; 403(k)—the articles contained artificial coloring and a chemical preservative and failed to bear a label stating that fact; and 403(i) (2)—the Collins Mix failed to bear the common or usual name of an ingredient, in that the name "Vegetable gum" was not the common or usual name of an ingredient.

DISPOSITION: On 9-27-62, Jane Riva and Charles Riva, t/a Riva Distributing Co., claimed the articles and denied that the articles were misbranded. Thereafter, the case was removed to the United States District Court for the Northern District of California. On 12-19-62, the claimant having withdrawn its claim and answer, a default decree was entered and the articles were destroyed.

28705. Whiskey. (F.D.C. No. 48271. S. No. 39-241 V.)

QUANTITY: 950 cases, containing 24 pt. btls. each, 518 cases containing 12 $\frac{4}{5}$ -qt. btls. each, and 25 cases, containing 12 qt. btls. each, at Jersey City, N.J.

SHIPPED: 10-4-62, from Freeport, Pa.

RESULTS OF INVESTIGATION: The articles were contained in a railroad boxcar which never reached its consignee due to the fact that the boxcar fell off a barge into the New York river basin where the articles were submerged for a period of approximately 21 hours before being removed.

LIBELED: 11-2-62, Dist. N.J.

CHARGE: 402(a)(4)—held under insanitary conditions in polluted river water.

DISPOSITION: 1-8-63. Consent—claimed by Schenley Distillers, Inc., and converted into neutral spirits.

CEREALS AND CEREAL PRODUCTS*

BAKERY PRODUCTS

28706. Cookies. (F.D.C. No. 47529. S. No. 17-795 T.)

QUANTITY: 11 cases, each containing 18 boxes of 30 pkgs. each, at Louisville, Ky.

SHIPPED: 5-16-62, from Chamblee, Ga., by Frito-Lay, Inc.

LABEL IN PART: (Pkg.) "Lay's Delight Creme Filled * * * Go-B-Tweens * * * Frito-Lay, Inc., National Headquarters, Dallas, Texas.

RESULTS OF INVESTIGATION: Examination showed the article to be sandwich-type cookies consisting of 2 dark-colored cookies with creme filling.

The name and address of the manufacturer, and quantity of contents and ingredient statement were printed in a relatively small type in dark blue-colored ink on a side panel of the clear cellophane wraparound label and were inconspicuous against dark cookies in the background and overlapping of the wrapper.

LIBELED: 6-6-62, W. Dist. Ky.

CHARGE: 403(f)—when shipped, the information required to appear on the labeling under 403(e)(1) and (2), 403(i)(2), and 403(k), namely, name and address of the manufacturer and an accurate statement of the quantity of contents, the common or usual name of each ingredient and the declaration of artificial flavor and color were not prominently placed on the label with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 8-27-62. Default—delivered to a charitable institution.

CORNMEAL

28707. Cornmeal. (F.D.C. No. 47413. S. No. 7-428 T.)

QUANTITY: 300 100-lb. bags at Fall River, Mass., in possession of Frito-Lay, Inc.

SHIPPED: 12-17-61, from Paris, Ill.

LIBELED: 3-22-62, Dist. Mass.

CHARGE: 402(a)(3)—contained rodent urine and rodent excreta pellets; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-30-62. Default—ordered destroyed or donated to a public or charitable institution for use as animal feed.

*See also No. 28784.

28708. Cornmeal. (F.D.C. No. 48336. S. Nos. 28-474/5 V.)

QUANTITY: 100 bales, each containing 24 2-lb. bags, and 144 bales, each containing 10 5-lb. bags, at Kansas City, Mo.

SHIPPED: 9-20-62, from Lincoln, Nebr.

LIBELED: On or about 10-26-62, W. Dist. Mo.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 1-2-63. Consent—converted into livestock feed.

28709. Cornmeal. (F.D.C. No. 48152. S. Nos. 1-287/9 T, 64-249/54 T.)

INFORMATION FILED: 1-22-63, N. Dist. Fla., against William D. McDaniel, t/a Hoover Milling Co., Bonifay, Fla.

SHIPPED: Between 3-1-62 and 5-30-62, from Florida to Alabama.

LABEL IN PART: (Bag) "Medium [or "Fine"] Sifted Hoover's White Corn Meal Manufactured By Hoover's Water Mill Bonifay, Florida 5 Lbs. Net Wt. [or "2 Lbs. Net Wt."]."

CHARGE: 402(a)(3)—contained insect parts and rodent hair fragments (counts 1 & 2), insects, insect parts, and rodent hair fragments (count 3), insects and insect parts (counts 4, 5 & 6); and 402(a)(4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 4-29-63. \$600 fine suspended, and probation for 3 years.

FLOUR*

28710. Flour. (F.D.C. No. 47798. S. No. 17-938 T.)

QUANTITY: 400 100-lb. bags at Cincinnati, Ohio.

SHIPPED: 6-4-62, from Leavenworth, Kans.

RESULTS OF INVESTIGATION: Investigation disclosed that the article had been fumigated in a railroad car to control insects, resulting in the article containing a food additive, namely, inorganic bromides in excess of 50 parts per million.

LIBELED: 7-6-62, S. Dist. Ohio.

CHARGE: 402(a)(2)(C)—while in interstate commerce, the article contained a food additive, namely, inorganic bromides, which was unsafe within the meaning of 409 since it and its use or intended use were not in conformity with a regulation or exemption in effect pursuant to 409.

DISPOSITION: 7-19-62. Consent—claimed by the Baltimore and Ohio Railroad Co., Baltimore, Md., and denatured.

28711. Flour. (F.D.C. No. 48391. S. No. 7-171 V.)

QUANTITY: 30 100-lb. bags at Waterbury, Conn., in possession of Brooklyn Baking Co.

SHIPPED: 10-5-62, from Holyoke, Mass.

LIBELED: 12-7-62, Dist. Conn.

CHARGE: 402(a)(3)—contained rodents and rodent excreta; and 402(a)(4)—held under insanitary conditions.

*See also Nos. 28739, 28784.

DISPOSITION: 1-10-63. Default—delivered to a public institution for use as animal feed.

28712. Self rising flour. (F.D.C. No. 48409. S. No. 1-614 V.)

QUANTITY: 807 25-lb. bags at Lake City, S.C.

SHIPPED: Between 10-24-62 and 10-31-62, from Laurinburg, N.C., by Laurinburg Milling Co.

ACCOMPANYING LABELING: (Bag) "Enriched * * * Snow Lily Superlative Self Rising Flour * * * Manufactured By Laurinburg Milling Co. Laurinburg, N.C."

LIBELED: 12-13-62, E. Dist. S.C.

CHARGE: 402(a)(3)—contained insects and insect parts; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 3-13-63. Default—delivered to a State institution for use as livestock feed.

28713. Flour. (F.D.C. No. 47079. S. Nos. 57-423/5 R.)

INFORMATION FILED: 6-5-62, S. Dist. Fla., against Certified Grocers of Florida, Inc., Ocala, Fla., and Hal W. Lively, general manager.

ALLEGED VIOLATION: Between 2-10-61 and 4-11-61, while quantities of flour were being held for sale after shipment in interstate commerce, the defendants caused the flour to be held in a building that was accessible to rodents, birds, and insects and to be exposed to contamination by rodents, birds, and insects, which acts resulted in the flour being adulterated.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 4-19-63. Corporation—\$150 fine; individual—\$100 fine.

28714. Pastry flour. (F.D.C. No. 47309. S. Nos. 97-625 R, 9-507 T.)

INFORMATION FILED: 8-31-62, N. Dist. Ohio, against Beloit Milling Co., and Guy L. Coppock, president and treasurer.

SHIPPED: 8-7-61 and 8-18-61, from Beloit, Ohio, to Braddock, Pa.

LABEL IN PART: (Bag) "Beloit City Mills Fancy Pastry Flour White Rose 50 Lbs. Net Milled by Beloit Milling Co. Beloit, Ohio."

CHARGE: 402(a)(3)—contained insects and insect fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 12-13-62. Corporation—\$500 fine; individual—\$250 fine suspended.

MACARONI AND NOODLE PRODUCTS*

28715. Macaroni products. (F.D.C. No. 47347. S. Nos. 47-713 T, 47-715 T.)

INFORMATION FILED: 12-14-62, E. Dist. Mo., against Thriftee Food Stores, a partnership, Washington, Mo., and Clarence B. Young, a partner.

ALLEGED VIOLATIONS: Between 5-26-60 and 10-12-61, while quantities of macaroni products were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building that was

*See also No. 28784.

accessible to insects and to be exposed to contamination by insects, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 3-15-63. Partnership and individual fined \$250 each.

28716. Egg noodles. (F.D.C. No. 46952. S. Nos. 2-370/1 T.)

QUANTITY: 2,601 cases, 4 5-lb. boxes each, at Forest Park, Ga.

SHIPPED: 2-1-61, from Brooklyn, N.Y., by Paramount Macaroni Manufacturing Co., Inc.

LABEL IN PART: (Box) "Noodles, Egg * * * Paramount Macaroni Mfg. Co. Inc., Brooklyn, N.Y."

LIBELED: 2-1-62, N. Dist. Ga.

CHARGE: 402(b)(1)—when shipped, the valuable constituent, egg or egg yolk solids, had been in whole or in part omitted from the article; and 403(g)(1)—the article failed to conform to the definition and standard of identity for egg noodles since the total solids of the article contained less than 5.5 percent by weight of the solids of egg or egg yolk.

DISPOSITION: 3-29-62. Default—the article was ordered destroyed since examination subsequent to seizure disclosed that it contained insects.

28717. Egg noodles. (F.D.C. No. 46956. S. No. 43-346 T.)

QUANTITY: 3,928 cases, 4 5-lb. boxes each, at New Cumberland, Pa.

SHIPPED: Between 5-24-61 and 6-21-61, from Brooklyn, N.Y., by Paramount Macaroni Manufacturing Co., Inc.

LABEL IN PART: (Box) "Noodles, Egg * * * Paramount Macaroni Mfg. Co. Inc., Brooklyn, New York."

RESULTS OF INVESTIGATION: Examination showed that the article failed to conform to the definition and standard of identity for egg noodles in that the total solids of the article contained less than 5.5 percent by weight of solids of egg or egg yolk.

LIBELED: 2-1-62, M. Dist. Pa.

CHARGE: 402(b)(1)—when shipped, the valuable constituent, egg or egg yolk solids, had been in whole or in part omitted from the article; and 403(g)(1)—the article failed to conform to the definition and standard of identity for egg noodles.

DISPOSITION: 5-19-62. Consent—delivered to Government for use as macaroni and not as egg noodles.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

28718. Wheat. (Inj. No. 431.)

COMPLAINT FOR INJUNCTION FILED: 5-4-62, Dist. Wyo., against Tri-County Grain Co., a corporation, Chugwater and Slater, Wyo., and Harold Hellbaum, secretary-treasurer.

CHARGE: The complaint alleged that the defendants were engaged in operating a grain storage facility at Chugwater, Wyo., consisting of an elevator and including 8 steel tanks and 2 corrugated steel buildings, and a grain storage

facility at Slater, Wyo., consisting of an elevator and including 2 quonset buildings, designated as north and south quonset, a flat storage wooden building, and a circular steel tank, each for the storage and distribution of wheat for human consumption; and that the defendants were introducing and causing to be introduced and delivering and causing to be delivered for introduction into interstate commerce, wheat which was adulterated within the meaning of 402(a) (3) and (4), by reason of the presence of rodent excreta pellets and insects in the wheat and by reason of being held under insanitary conditions.

The complaint alleged further that the insanitary conditions resulted from and consisted of:

At Chugwater—in tank No. 1, many mouse and 2 rat excreta pellets on the surface of the wheat, and 3 pink kernels of wheat; in the elevator boot pit, mouse excreta pellets, insect-damaged kernels of wheat, approximately 60 whole insects and insect fragments in 100 grams of wheat, and 2 dead mice on the floor of the pit; and in the tunnel, 1 live mouse, and 500–600 mouse excreta pellets concentrated along the walls of the tunnel.

At Slater—in the north quonset building, insect-damaged wheat on the surface and to a depth of 3½ feet, mouse excreta pellets, live and dead grain beetles, and warm wheat below the surface.

It was alleged further that the defendants were well aware that their activities were in violation of the Act; that inspections of the defendants' grain storage facilities at Chugwater, Wyo., and at Slater, Wyo., were made on 2-15-62, 2-16-62, 3-15-62, and 3-22-62, by inspectors of the Food and Drug Administration; that at each inspection evidence of adulteration was readily visible; that on 3-22-62, inspectors found that some wheat had been skimmed from the surface of the wheat in the north quonset building of the defendants' storage facility at Slater, Wyo.; that some of that wheat would be sold in interstate commerce; and that the defendants had been aware from the first inspection that wheat for human consumption was being stored under insanitary conditions in both grain storage facilities.

DISPOSITION: On 5-4-62, the defendants having consented, the court entered a decree of permanent injunction enjoining the defendants from directly or indirectly introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, wheat for human consumption and any similar article of food held at the defendants' grain storage facilities at Chugwater, Wyo., and at Slater, Wyo., unless and until the areas of the facility maintained at Chugwater, Wyo., which were designated as tank No. 1, the elevator boot pit, and tunnel and the area designated as the north quonset building at the facility maintained at Slater, Wyo., were thoroughly cleaned and renovated and rendered suitable for use in connection with the storage of wheat for human consumption and any similar article of food, to wit, unless and until all rodent and insect filth was removed from those areas; all rodent and insect infestation in and about those areas was eliminated; the means of ingress and egress of the areas by rodents and insects were closed; and any similar insanitary conditions which might result in wheat for human consumption and any similar article of food being contaminated with filth while held at those grain storage facilities were eliminated; and all of the wheat which was on hand at the defendants' grain storage facilities at Chugwater, Wyo., and at Slater, Wyo., was destroyed, denatured for use as animal feed, or cleaned, segregated and otherwise re-

conditioned under the supervision of a duly authorized representative of the Food and Drug Administration, Department of Health, Education, and Welfare and thus brought into compliance with the provisions of the Act.

28719. Wheat (2 seizure actions). (F.D.C. Nos. 47270, 47278. S. Nos. 34-700 T, 63-442 T.)

QUANTITY: 84,960 lbs. at Minneapolis and St. Paul, Minn.

SHIPPED: 3-23-62, from Wilton, N. Dak., by Wilton Elevator Co.

LIBELED: 4-5-62, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 4-16-62 and 4-19-62. Consent—claimed by Wilton Elevator Co. Segregated; 34,020 lbs. destroyed.

28720. Wheat. (F.D.C. No. 46680. S. No. 17-440 R.)

INFORMATION FILED: 2-25-62, Dist. Idaho, against Colorado Milling & Elevator Co., a corporation, t/a Midland Elevators, American Falls, Idaho.

SHIPPED: 4-5-61, from Idaho to Colorado.

CHARGE: 402(a)(3)—contained mouse excreta pellets; and 402(a)(4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 6-29-62. \$100 fine.

28721. Wheat. (F.D.C. No. 47800. S. No. 70-696 T.)

QUANTITY: 40,000 lbs. at Minneapolis, Minn.

SHIPPED: 6-30-62, from Richardton, N. Dak., by Farmers Union Elevator Co.

LIBELED: 7-13-62, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-27-62. Consent—claimed by Richardton Farmers Union Elevator Co., and denatured.

28722. Wheat. (F.D.C. No. 48483. S. No. 52-704 V.)

QUANTITY: 120,450 lbs. at Seattle, Wash., in possession of Chicago, Milwaukee, St. Paul & Pacific Railroad Co.

SHIPPED: 11-20-62, from Spring Hill, Mont.

RESULTS OF INVESTIGATION: Examination showed that the wheat contained rodent excreta, and that it was in a railroad car which was infested with live mice.

LIBELED: 12-11-62, W. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta; and 402(a)(4)—held under insanitary conditions while in interstate commerce.

DISPOSITION: 12-14-62. Consent—claimed by Cargill, Inc., Minneapolis, Minn., and denatured for use as animal feed.

28723. Wheat cereal, unshelled peanuts, and mixed nuts. (F.D.C. No. 47359. S. Nos. 21-704/6 T.)

INFORMATION FILED: 8-9-62, Dist. Utah, against Utah Wholesale Grocery Co., a corporation, Salt Lake City, Utah, and Alfred B. Smith, secretary-treasurer and general manager.

ALLEGED VIOLATIONS: Between 11-19-60 and 8-25-61, while quantities of wheat cereal, peanuts, and mixed nuts were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building that was accessible to and infested with rodents and to be exposed to contamination by rodents, which acts caused the articles to become adulterated.

CHARGE: 402(a)(3)—the wheat cereal contained mouse pellets, urine, and hairs; and 402(a)(4)—the wheat cereal, peanuts, and mixed nuts were held under insanitary conditions.

PLEA: Not guilty.

DISPOSITION: The case was tried before the court on 1-28-63 and 1-29-63. The defendants were found guilty; and, on 3-4-63, Smith was placed on probation for 5 years and the corporation was fined \$3,000.

28724. Unpopped popcorn. (F.D.C. No. 48453. S. Nos. 55-963 V, 55-965 V.)

QUANTITY: 95 50-lb. bags of yellow popcorn; 43 cases of 12 2-lb. bags, 2 cases of 6 4-lb. bags, and 21 cases containing an undetermined number of 2- and 4-lb. bags of yellow and white popcorn, at Kansas City, Mo.

SHIPPED: Between 7-19-62 and 9-1-62, from Hamburg, Iowa.

LIBELED: On or about 11-29-62, W. Dist. Mo.

CHARGE: 402(a)(3)—contained insects and insect larvae while held for sale.

DISPOSITION: 1-17-63. Default—delivered to a public institution for use as animal feed.

28725. Unpopped popcorn (2 seizure actions). (F.D.C. Nos. 45600, 45789. S. Nos. 19-930 R, 46-628 R.)

QUANTITY: 70,000 lbs. and 33,660 lbs. at Middlebury, Ind.

SHIPPED: 3-2-61 and 3-18-61, from Shawneetown, Ill., by Wanberg Popcorn Co.

LIBELED: 3-27-61 and 5-4-61, N. Dist. Ind.

CHARGE: 402(a)(3)—when shipped, contained rodent urine, rodent excreta pellets, rodent hairs, rodent-gnawed kernels, and insect fragments (70,000-lb. lot); and rodent-gnawed kernels and insect-damaged kernels (33,660-lb. lot); and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: The articles were claimed by the Wanberg Popcorn Co., and the two cases were consolidated on 7-6-61. Government filed written interrogatories on 11-30-61. On 10-24-62, a consent decree was entered and the articles were converted for use as animal feed.

28726. Rice. (F.D.C. No. 48467. S. No. 34-106 V.)

QUANTITY: 270 100-lb. bags at Onamia, Minn.

SHIPPED: 4-3-62, from Abbeville, La.

LIBELED: 12-12-62, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent urine and rodent excreta while held for sale.

DISPOSITION: 1-7-63. Consent—claimed by Mille Lacs Maple Products Corp., St. Paul, Minn. Segregated; 6,700 lbs. converted into animal feed.

28727. Rice. (F.D.C. No. 48591. S. No. 2-273 V.)

QUANTITY: 118 100-lb. bags at Atlanta, Ga., in possession of G. B. Sawyer Co.

SHIPPED: 10-22-62, from Memphis, Tenn.

LIBELED: 1-4-63, N. Dist. Ga.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-11-63. Consent—claimed by G. B. Sawyer Co., and denatured for use as animal feed.

28728. Rice. (F.D.C. No. 48479. S. No. 33-605 V.)

QUANTITY: 57 100-lb. bags at St. Paul, Minn.

SHIPPED: 3-7-62, from Jonesboro, Ark.

LIBELED: 12-14-62, Dist. Minn.

CHARGE: 402(a)(3)—contained insect larvae, insect cast skins, and insect fragments while held for sale.

DISPOSITION: 1-29-63. Default—destruction.

28729. Rice. (F.D.C. No. 48673. S. No. 50-041 V.)

QUANTITY: 24 100-lb. bags at Sacramento, Calif., in possession of North American Food Distributing Co.

SHIPPED: 11-2-62, from Houston, Tex.

LIBELED: 1-16-63, N. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-27-63. Default—destruction.

28730. Milo maize. (F.D.C. No. 47093. S. No. 49-438 R.)

INFORMATION FILED: 7-30-62, N. Dist. Tex., against DeKalb Agricultural Association, Inc., Lubbock, Tex., and Archie R. Campbell, plant manager.

SHIPPED: 5-17-61, from Lubbock, Tex., to Hobbs, N. Mex.

CHARGE: 402(a)(2)(B)—the article was a raw agricultural commodity and it bore or contained the pesticide chemical, captan, which was unsafe within the meaning of 408(a), and no tolerance or exemption for captan in or on grain sorghum (milo maize) had been prescribed by regulations; and the article also bore or contained the pesticide chemical, heptachlor, which was unsafe within the meaning of 408(a) since the quantity of heptachlor in and on the food was in excess of the zero tolerance for heptachlor in and on grain sorghum (milo maize) prescribed by regulations.

PLEA: Nolo contendere.

DISPOSITION: 10-29-62. Corporation—\$500 fine; individual—probation for 1 year.

28731. Crimped oats. (F.D.C. No. 48158. S. No. 23-067 T.)

INFORMATION FILED: 12-26-62, Dist. N. Mex., against Roswell Trading Co., a corporation, Roswell, N. Mex., and Judson Goodart, president, and Frank Estes, t/a E. & E. Pest Control, Roswell, N. Mex.

ALLEGED VIOLATIONS: Between 11-4-61 and 1-9-62, while crimped oats were being held for sale after shipment in interstate commerce, the defendants caused a rodenticide, a poisonous chemical substance, to be placed in close proximity to the crimped oats under conditions whereby the crimped oats were exposed to contamination by the rodenticide, which act resulted in the article being adulterated.

CHARGE: 402(a) (1)—the article consisted in part of a poisonous and deleterious substance by reason of the presence therein of DDT tracking powder; and 402(a) (4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 4-4-63. Corporation—\$100 fine; each individual—\$100 fine.

28732. Breeding and batter mix. (F.D.C. No. 48364. S. Nos. 6-640 V, 7-101 V.)

QUANTITY: 445 50-lb. bags of breeding and 292 50-lb. bags of batter mix, at Charlestown, Mass., in possession of Fulham Bros., Inc.

SHIPPED: Between 8-16-62 and 10-12-62, from New York, N.Y., and Chicago, Ill.

LIBELED: 11-15-62, Dist. Mass.

CHARGE: 402(a) (3)—the breeding contained insects; and 402(a) (4)—both lots held under insanitary conditions.

DISPOSITION: 1-14-63. Default—destruction.

CONFECTIONERY, SUGAR, AND SIRUP

CONFECTIONERY*

28733. Candy. (F.D.C. No. 48102. S. Nos. 72-245 T, 72-247 T.)

QUANTITY: 5 bulk boxes and 26 cases, each containing 12 10-oz. pkgs. of Milk Chocolate Stars, and 5 bulk cases and 25 cases, each containing 12 10-oz. pkgs. of Chocolate Nonpareils, at Dayton, Ohio, in possession of Dixie Candy & Fountain Supply.

SHIPPED: Between 2-1-62 and 7-9-62, from Chicago, Ill., and Brooklyn, N.Y.

LABEL IN PART: (Pkg.) "Dixie * * * Distributed by Dixie Candy Dayton, Ohio Ingredients All or part of sugar, peanuts, corn syrup, coconut oil, gelatin, salt, baking soda, natural and artificial flavoring or coloring," and "Dixie Nonpareils * * * Ingredients All or part of sugar, peanuts, corn syrup, coconut oil, gelatin, salt, baking soda, natural and artificial flavoring or coloring Distributed By Dixie Candy Dayton, Ohio."

RESULTS OF INVESTIGATION: The articles were shipped in bulk packages and repacked and labeled by the dealer as described above. The Milk Chocolate Stars bore a label on which the ingredients statement was printed in very small type making it difficult to read.

LIBELED: 9-18-62, S. Dist. Ohio.

CHARGE: Milk Chocolate Stars (bulk and repack), 403(a)—while held for sale, the labeling, namely, the repack label, made statements which represented and suggested that the article contained peanuts and coconut oil, gelatin, baking soda, natural flavoring and artificial coloring, which statements were false and misleading since they were contrary to fact; 403(f)—the information required to appear on the label under 403(i) (2), namely, the common or usual name of each ingredient, was not prominently placed thereon (as compared with other words, statements, designs, or devices in the labeling) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use; and 403(i) (2)—the labels failed to bear the common or usual name of each ingredient.

*See also No. 28784.

Chocolate Nonpareils (bulk and repack), 403(a)—the labeling, namely, the repack label, made statements which represented and suggested that the article contained peanuts, coconut oil, gelatin, baking soda and artificial coloring, which statements were false and misleading since they were contrary to fact; and 403(i)(2)—the label failed to bear the common or usual name of each ingredient.

DISPOSITION: 12-12-62. Default—delivered to a civic organization for charitable purposes.

28734. Butterscotch chips (candy). (F.D.C. No. 48300. S. No. 94-429 T.)

QUANTITY: 49 cases, 24 6-oz. pkgs. each, at Minneapolis, Minn.

SHIPPED: Between 7-27-62 and 8-9-62, from Milwaukee, Wis.

LABEL IN PART: (Pkg.) "QUALITY PAK BUTTERSCOTCH CHIPS * * *
DISTRIBUTED BY UNITED PACKING SERVICE, MINNEAPOLIS, MIN-
NESOTA INGREDIENT * * * EMULSIFIER."

RESULTS OF INVESTIGATION: Examination showed that the article contained imitation maple flavor, artificial butter flavor, and little or no butter. The article was shipped in bulk to the United Packing Service where it was repacked into the above-mentioned packages.

LIBELED: 10-5-62, Dist. Minn.

CHARGE: 403(a)—while held for sale, the name "Butterscotch chips" was false and misleading as applied to an artificially flavored product containing little or no butter; and 403(i)(2)—the label failed to bear the common or usual name of each ingredient, since the term "EMULSIFIER" was not the common or usual name of an ingredient.

DISPOSITION: 1-9-63. Consent—claimed by United Packaging Co., Inc., Minneapolis, Minn., and relabeled.

28735. Candy. (F.D.C. No. 48488. S. No. 16-746 V.)

QUANTITY: 7 cases, each containing 24 1-lb. boxes, at Chattanooga, Tenn.

SHIPPED: 10-18-62, from St. Louis, Mo., by Purity Candy Co.

LABEL IN PART: (Box) "Purity Candy Co. St. Louis, Mo."

LIBELED: 12-14-62, E. Dist. Tenn.

CHARGE: 402(a)(3)—contained insects, insect larvae, insect parts, and insect fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 1-15-63. Default—destruction.

28736. Candy. (F.D.C. No. 48478. S. No. 34-217 V.)

QUANTITY: 47 cases, containing 24 9½-oz. bags each, and 44 9½-oz. bags, at Hopkins, Minn.

SHIPPED: 9-26-62, from Chicago, Ill., by Wolch Nut & Candy Co.

LABEL IN PART: (Bag) "Wolch's Rum Eclairs * * * Ingredients: * * *
Natural and Artificial Flavors * * * Dist. by Wolch Nut & Candy Co. Chicago,
Ill."

LIBELED: 12-14-62, Dist. Minn.

CHARGE: 402(a)(3)—when shipped, the article was unfit for food by reason of having a strong, soapy flavor repulsive to the taste; and 403(a)—the name “Rum Eclairs” was false and misleading as applied to an article containing imitation rum flavor.

DISPOSITION: 1-29-63. Default—destruction.

28737. Candy. (F.D.C. No. 48184. S. Nos. 3-012/13 R, 88-417/18 T, 88-420 T.)

INFORMATION FILED: 2-8-63, M. Dist. Ga., against James L. Shirey, t/a Allen's Candies, Columbus, Ga.

SHIPPED: Between 9-23-60 and 7-25-62, from Columbus, Ga., to Wellington, Oxford, Anniston, and Phenix City, Ala.

LABEL IN PART: “Allen's Candies Avg Wt 1 oz. Columbus, Georgia.”

CHARGE: 402(a)(3)—contained insects, insect larvae, and insect parts; and 402(a)(4)—prepared under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 3-7-63. \$250 fine.

28738. Candy bars. (F.D.C. No. 48261. S. Nos. 2-607/8 V.)

QUANTITY: 137 boxes, 24 1 $\frac{3}{8}$ -oz. bars each, at Kingstree, S.C.

SHIPPED: Between 6-20-62 and 9-21-62, from Atlanta, Ga.

LIBELED: 11-7-62, E. Dist. S.C.

CHARGE: 402(a)(3)—contained insects and insect larvae while held for sale.

DISPOSITION: 3-16-63. Default—destruction.

SUGAR AND SIRUP

28739. Sugar and flour. (F.D.C. No. 48468. S. Nos. 45-438/9 V.)

QUANTITY: 11 100-lb. bags of sugar and 15 100-lb. bags of flour, at Joplin, Mo., in possession of Bastian Wholesale Grocery Co.

SHIPPED: 10-25-62 and 11-1-62, from Brighton, Colo., and Wichita, Kans.

LIBELED: On or about 12-3-62, W. Dist. Mo.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-21-63. Default—destruction.

28740. Sorghum sirup mixture. (F.D.C. No. 48291. S. No. 27-665 V.)

QUANTITY: 300 cans at Muncie, Kans.

SHIPPED: 9-16-62, from Joplin, Mo., by Ray Sloan.

LABEL IN PART: (Can) “Country Sorghum New Crop Made For Ray Sloan, Distr. * * * Joplin, Missouri Made From Cane Juice * * * Minimum Weight 4 $\frac{1}{2}$ Pounds.”

RESULTS OF INVESTIGATION: Examination showed the article to be a mixture of sorghum sirup and saccharin, or other sweetening substance.

LIBELED: 11-15-62, Dist. Kans.

CHARGE: 402(b)(1)—when shipped, the valuable constituent, sorghum sirup, had been in part omitted; 402(b)(2)—a saccharin or sweetening substance other than sorghum had been in part substituted for sorghum sirup; 403(a)—the name "Country Sorghum" was false and misleading as applied to a product containing approximately 40 percent sweetening substance other than sorghum sirup; and 403(b)—the article was offered for sale under the name of another food, sorghum, and was not sorghum or sorghum sirup.

DISPOSITION: 3-26-63. Default—delivered to a Federal institution.

DAIRY PRODUCTS

CHEESE

28741. Grated cheese. (F.D.C. No. 48392. S. No. 40-229 V.)

QUANTITY: 400 lbs. in reused drums at Roselle Park, N.J.

SHIPPED: 11-6-62, from Sunbury, Pa., by Sunbury Cheese Products.

LIBELED: 12-3-62, Dist. N.J.

CHARGE: 402(a)(3)—contained rodent hairs, fly fragments and parts, and other insect fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 1-16-63. Default—destruction.

EGGS

28742. Frozen eggs. (F.D.C. No. 45691. S. No. 32-532 R.)

INFORMATION FILED: 11-30-61, Dist. Oreg., against Thomas R. Dicillo, t/a Oregon Egg & Poultry Co., Portland, Oreg.

SHIPPED: 4-5-60, from Oregon to New York.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

PLEA: Not guilty.

DISPOSITION: The case went to trial before a jury on 4-10-62. The trial was concluded on 4-11-62, with a verdict of guilty. On 6-22-62, the defendant was sentenced to 6 months in prison.

28743. Frozen eggs. (F.D.C. No. 42870. S. No. 32-951 P.)

QUANTITY: 300 30-lb. cans at Brooklyn, N.Y.

SHIPPED: 2-16-59, from Jersey City, N.J., by L. Meyer & Co., Inc.

LABEL IN PART: "Whole Egg * * * L. Meyer & Co., Inc., Jersey City, N.J."

LIBELED: 3-9-59, E. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: L. Meyer & Co., Inc., appeared as claimant and filed an answer denying that the article was adulterated as alleged in the libel. On 1-7-60, written interrogatories were served by the Government and were subsequently answered by the claimant. Thereafter, the Government filed a motion for summary judgment. On 1-7-63, the claimant having failed to oppose the motion, the court granted the motion and entered a decree of condemnation and destruction.

28744. Frozen eggs. (F.D.C. No. 47791. S. No. 20-857 T.)

QUANTITY: 899 30-lb. cans at Fort Worth, Tex.

SHIPPED: 6-19-62, from Hope, Ark., by Delight Egg Farms, Inc.

LABEL IN PART: (Cans) "Whole Eggs * * * Packed by Delight Egg Farms, Inc., Hope, Arkansas."

LIBELED: 7-11-62, N. Dist. Tex.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 9-10-62. Consent—claimed by Delight Certified Egg Farms, Inc. Segregated; 112 cans denatured.

28745. Frozen eggs. (F.D.C. No. 48230. S. No. 39-368 V.)

QUANTITY: 25 30-lb. cans at Brooklyn, N.Y.

SHIPPED: 9-24-62, from Perth Amboy, N.J., by Adler Egg Co., Inc.

LABEL IN PART: (Can) "Royal Crown Whole Egg * * * Adler Egg Co., Perth Amboy, N.J."

LIBELED: 10-11-62, E. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 11-14-62. Default—destruction.

28746. Frozen eggs. (F.D.C. No. 48494. S. No. 47-886 V.)

QUANTITY: 290 30-lb. cans at St. Louis, Mo.

SHIPPED: 11-20-62, from Chicago, Ill., by Schneider Bros., Inc.

LABEL IN PART: (Can) "Frozen Whole Eggs * * * Packed by Schneider Bros., Inc. Chicago, Ill."

LIBELED: 12-27-62, E. Dist. Mo.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 1-30-63. Consent—claimed by Schneider Bros., Inc. Segregated; 81 cans destroyed.

FEEDS AND GRAINS

28747. Medicated animal feeds. (F.D.C. No. 48139. S. Nos. 58-618/20 T.)

QUANTITY: 19 50-lb. bags of a dairy concentrate, 51 50-lb. bags of a cattle-sheep mineral with vitamins, and 12 50-lb. bags of a cattle concentrate, at Hershey, Nebr.

SHIPPED: 1-24-62, from Sheldon, Iowa.

RESULTS OF INVESTIGATION: Examination showed that the dairy concentrate and the cattle-sheep mineral with vitamins contained approximately 50 percent, and the cattle concentrate contained approximately 20 percent, of the declared amount of vitamin A.

LIBELED: 10-10-62, Dist. Nebr.

CHARGE: 402(b)(1)—while held for sale, the valuable constituent, namely, vitamin A, had been in part omitted or abstracted from the articles; and 403(a)—the label statements "Vitamin A not less than 14,500 USP Units/Lb." (dairy concentrate); "Vitamin A 40,000 USP Units/lb." (cattle-sheep mineral with vitamins); and "Each Pound Contains Not Less Than: Vitamin A 100,000 USP Units" (cattle concentrates) were false and misleading, since the articles contained less than the declared amounts of vitamin A.

DISPOSITION: 11-14-62. Default—destruction.

28748. Shelled corn. (F.D.C. No. 43110. S. No. 55-059 M.)

INFORMATION FILED: 7-1-59, S. Dist. Ind., against Altsheler & Payne, a partnership, t/a Trenton Grain Co., Trenton, Ky.

SHIPPED: 8-27-57, from Indiana to Tennessee.

CHARGE: 402(a)(2)(B)—the article was a raw agricultural commodity and, when shipped, it bore and contained a pesticide chemical, namely, thiram, which was unsafe within the meaning of 408(a) since no tolerance or exemption from a tolerance for such chemical on shelled corn has been prescribed.

PLEA: Nolo contendere.

DISPOSITION: 9-28-59. \$500 fine, plus costs.

FISH AND SHELLFISH

28749. Perch fillets (2 seizure actions). (F.D.C. Nos. 47704/5. S. Nos. 8-590 T, 62-210 T.)

QUANTITY: 316 ctns., 5 10-lb. boxes each, at Gloucester, Mass.

SHIPPED: These fillets were from fish caught by the fishing vessel "Malolo" in the waters of the Atlantic Ocean outside the territorial limits of Massachusetts, and landed at Gloucester, Mass., on or about 6-16-62.

LIBELED: 7-5-62, Dist. Mass.

CHARGE: 402(a)(3)—contained parasitic copepods when shipped.

DISPOSITION: 7-26-62. Consent—claimed by North Atlantic Fish Co., Inc., Gloucester, Mass. The two actions were consolidated upon motion of claimant. The article was reconditioned by cutting out the parasitic portions.

28750. Frozen grouper fillets. (F.D.C. No. 47807. S. No. 38-907 T.)

QUANTITY: 145 cases, 10 2¼-lb. boxes each, at Omaha, Nebr.

SHIPPED: 6-29-62, from Chalmette, La., by Gourmet Seafoods, Inc.

LABEL IN PART: (Box) "Ocoma Gourmet Seafood Products Frozen Stuffed Red Snapper Fillets—Ingredients: Red Snapper Fillet—Distributed by Ocoma Foods Company, Omaha, Nebraska."

RESULTS OF INVESTIGATION: Establishment inspection of shipper disclosed that grouper fish fillets were used in the preparation of the article and that oleomargarine was used in the coating of the product.

LIBELED: 7-19-62, Dist. Nebr.

CHARGE: 403(a)—when shipped, the name "Stuffed Red Snapper Fillets" and the label statement "Ingredients: Red Snapper Fillet" were false and misleading as applied to a product prepared from grouper fish fillets; 403(b)—the article was offered under the name of another food, namely, stuffed red snapper fillets; and 403(i)(2)—in that the article contained oleomargarine and that ingredient was not listed in its label.

DISPOSITION: 11-1-62. Consent—claimed by Gourmet Seafoods, Inc., and ordered released for relabeling.

28751. Frozen fish sticks. (F.D.C. No. 48486. S. No. 35-807 V.)

QUANTITY: 267 cases, each containing 12 14-oz. pkgs., at Minneapolis, Minn.

SHIPPED: 10-19-62, from Boston, Mass., by Fulham Bros., Inc.

LABEL IN PART: (Pkg.) "4 Fisherman 18 Haddock Fishsticks Frozen Fresh
* * * Fulham Brothers, Inc."

RESULTS OF INVESTIGATION: Examination showed the article to be codfish.

LIBELED: 12-17-62, Dist. Minn.

CHARGE: 402(a)(3)—contained fly fragments, cockroach fragments, and rodent hair fragments; 402(a)(4)—prepared under insanitary conditions; 403(a)—the label statement "Haddock" was false and misleading as applied to a product consisting of codfish; and 403(b)—the article was offered for sale under the name of another food, namely, haddock.

DISPOSITION: 1-29-63. Default—destruction.

28752. Frozen shrimp. (F.D.C. No. 47476. S. No. 50-085 T.)

QUANTITY: 38 cases, 20 2.5-lb. ctns. each, at San Francisco, Calif.

SHIPPED: 8-28-61, from Tokyo, Japan, by Eastern Products Co., Ltd.

LABEL IN PART: (Ctn.) "Coral Brand Fresh Frozen Cooked and Peeled Shrimp
* * * Packed for Crown Imports Co., Inc., San Francisco, Calif. Product of Japan."

LIBELED: 5-2-62, N. Dist. Calif.

CHARGE: 402(a)(3)—contained *E. coli* when shipped.

DISPOSITION: 9-18-62. Consent—claimed by Crown Imports Co., Inc., San Francisco, Calif. Ordered released for export to the original supplier.

28753. Frozen shrimp. (F.D.C. No. 48396. S. No. 39-691 V.)

QUANTITY: 25 ctns., 10 pkgs. each, at New York, N.Y.

SHIPPED: 10-30-62, from Montreal, Canada, by Waldman's Fishco, Ltd.

LABEL IN PART: (Ctn.) "Fresh Frozen Shrimp Proreca Productos Refrigerados C.A. La Ensenada Estado Zulia * * * Net Weight 50 Lbs.," "I.N.A.C. c.a. Industria Nacional Alimentos Conservados C.A.," "Cantaromera T.I.A.C.A.," "Don C. Brand Cia de Productos Crustaceos S.A."

LIBELED: 12-7-62, S. Dist. N.Y.

CHARGE: 402(a)(3)—when shipped, contained decomposed shrimp; 403(e)—the article failed to bear a label containing (1) the name and address of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of contents; and 403(i)(1)—the label failed to bear the common or usual name of the food.

DISPOSITION: 1-8-63. Default—destruction.

28754. Frozen shrimp. (F.D.C. No. 48337. S. No. 36-211 V.)

QUANTITY: 17 cases, containing 12 boxes each, at New Orleans, La.

SHIPPED: 8-23-62, from Miami, Fla., by Gulf Stream Quick Frozen Foods, Inc.

LABEL IN PART: (Box) "Gulf Stream Brand—Shrimp 2 Pounds 8 Ounces Net Peeled, Deveined Weight—Packed in Miami, Florida by Quick Frozen Foods, Inc."

RESULTS OF INVESTIGATION: The article was short weight and contained decomposed shrimp.

LIBELED: 10-31-62, E. Dist. La.

CHARGE: 402(a)(3)—when shipped, contained decomposed shrimp; and 403(e)(2)—the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 1-23-63. Default—destruction.

28755. Frozen shrimp. (F.D.C. No. 48358. S. No. 38-602 V.)

QUANTITY: 19 cases, containing 10 5-lb. ctns. each, at New Orleans, La.

SHIPPED: 10-15-62, from New York, N.Y.

LIBELED: 11-15-62, E. Dist. La.

CHARGE: 402(a)(3)—contained decomposed shrimp while held for sale.

DISPOSITION: 2-15-63. Default—destruction.

28756. Canned tuna. (F.D.C. No. 47905. S. No. 73-872 T.)

QUANTITY: 250 cases, 48 cans each, at Bronx, N.Y.

SHIPPED: 3-27-62, from Seattle, Wash., by Pacific Reefer Fisheries.

LABEL IN PART: (Can) "Moisha's Brand Tuna Fancy Pack All White Albacore * * * Net Contents 7 Oz. Avd. Packed For Moisha's New York, N.Y."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 8-1-62, S. Dist. N.Y.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents, since the label statement "Net Contents 7 Oz." was inaccurate.

DISPOSITION: 10-23-62. Consent—claimed by Pacific Reefer Fisheries, Seattle, Wash., and relabeled.

FRUITS AND VEGETABLES*

MISCELLANEOUS FRUIT PRODUCT

28757. Orange juice product. (F.D.C. No. 48305. S. No. 13-784 V.)

QUANTITY: 140 cases, 12 32-oz. btl. each, at Waukesha, Wis.

SHIPPED: 7-23-62, from Chicago, Ill., by Sunshine Juice, Inc.

LABEL IN PART: (Btl. top) "Sunshine Chilled Orange Juice * * * Sunshine Food Products, Inc., Forest View, Ill. * * * Ingredients: Orange Juice From Concentrate, Freshly Squeezed Orange Juice"; (embossed in btl.) "Contents 32 Fl. oz."

RESULTS OF INVESTIGATION: The net weight statement was molded into the glass of the bottle and was inconspicuous against the orange liquid background of the bottle's contents.

LIBELED: 10-8-62, E. Dist. Wis.

CHARGE: 403(f)—when shipped, the information required by 403(e)(2), namely, the statement of quantity of contents, was not prominently placed on the label with such conspicuousness (as compared with other words and statements on the label) as to render such information likely to be read by the ordinary individual under customary conditions of purchase and use.

* See also No. 28784.

DISPOSITION: 10-18-62. Consent—claimed by Sunshine Food Products, Inc., Chicago, Ill., and relabeled.

VEGETABLES AND VEGETABLE PRODUCTS

28758. Fresh cabbage. (F.D.C. No. 48095. S. No. 77-586 T.)

QUANTITY: 12 50-lb. bags at Forest Park, Ga.

SHIPPED: 9-2-62, from Scaly Mountain, N.C., by William F. Billingsley.

LABEL IN PART: (Bag) "Fresh Green Cabbage."

LIBELED: 9-7-62, N. Dist. Ga.

CHARGE: 402(a)(2)(B)—the article was a raw agricultural commodity, and, when shipped, contained a pesticide chemical, namely, toxaphene, which was unsafe within the meaning of 408(a) since the quantity of such pesticide chemical on the article was not within the limits of the tolerance prescribed by regulations.

DISPOSITION: 9-24-62. Consent—destruction.

28759. Canned butter beans. (F.D.C. No. 48475. S. No. 45-018 V.)

QUANTITY: 239 cases, each containing 24 15-oz. cans, at Peoria, Ill.

SHIPPED: 10-17-62, from Springdale, Ark., by Steele Canning Co.

LABEL IN PART: (Can) "Happy Host Brand Butter Beans—Distributed By The Cooter Company San Francisco, Calif."

LIBELED: 12-5-62, S. Dist. Ill.

CHARGE: 402(a)(3)—contained insect larvae, larvae parts, and fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 1-4-63. Default—destruction.

28760. Dried black-eyed beans. (F.D.C. No. 48357. S. No. 17-126 V.)

QUANTITY: 154 100-lb. bags, at Chattanooga, Tenn.

SHIPPED: 8-31-62, from Los Angeles, Calif.

LIBELED: 11-15-62, E. Dist. Tenn.

CHARGE: 402(a)(3)—contained insect larvae while held for sale.

DISPOSITION: 1-9-63. Consent—claimed by Beth Bean Co., Chattanooga, Tenn., and reconditioned by cleaning.

28761. Dried Great Northern beans. (F.D.C. No. 48369. S. No. 2-746 V.)

QUANTITY: 55 100-lb. bags at Atlanta, Ga.

SHIPPED: 7-27-62, from North Kansas City, Mo.

LIBELED: 11-16-62, N. Dist. Ga.

CHARGE: 402(a)(3)—contained insects and insect larvae while held for sale.

DISPOSITION: 1-17-63. Consent—claimed by Biltmore Food Products Co., Inc., Atlanta, Ga., and reconditioned by cleaning.

28762. Potatoes. (F.D.C. No. 48319. S. No. 15-249 V.)

QUANTITY: 58 100-lb. bags, at Evansville, Ind.

SHIPPED: 9-26-62, from Marsing, Idaho, by L. S. Taube & Co.

LABEL IN PART: (Bag) "U.S. No. 1 Bowman Brand Idaho Potatoes Packed In Idaho By Bowman Produce Co., Marsing, Idaho."

LIBELED: 10-17-62, S. Dist. Ind.

CHARGE: 402(a)(2)(B)—the article was a raw agricultural commodity, and, when shipped, contained pesticide chemicals, namely, aldrin and dieldrin, which were unsafe within the meaning of 408(a) since the quantity of such chemicals on the article was not within the limits of the tolerance prescribed by regulations.

DISPOSITION: 11-30-62. Default—destruction.

28763. Potatoes. (F.D.C. No. 48306. S. No. 51-909 V.)

QUANTITY: 303 100-lb. bags at Evansville, Ind.

SHIPPED: 9-26-62, from Nyssa, Oreg., by Lynn Josephson Produce.

LABEL IN PART: (Bag) "U.S. No. 1 Taube's Queen Anne Brand Idaho Potatoes Packed by L. S. Taube & Co. Idaho Falls, Idaho Sales Office Kansas City, Mo."

LIBELED: 10-17-62, S. Dist. Ind.

CHARGE: 402(a)(2)(B)—the article was a raw agricultural commodity, and, when shipped, contained pesticide chemicals, namely, aldrin and dieldrin, which were unsafe within the meaning of 408(a) since the quantity of such chemicals on the article was not within the limits of the tolerance prescribed by regulations.

DISPOSITION: 11-28-62. Default—destruction.

28764. Potatoes. (F.D.C. No. 48416. S. No. 27-299 V.)

QUANTITY: 347 100-lb. bags at Corpus Christi, Tex.

SHIPPED: 11-30-62 and 12-1-62, from Gering, Nebr., by Nebraska Potato Shippers, Inc.

LABEL IN PART: (Bag) "U.S. No. 1 Golden Light Nebraska Potatoes Nebraska Potato Shippers, Inc., Gering, Nebraska."

LIBELED: 12-17-62, S. Dist. Tex.

CHARGE: 402(a)(2)(B)—when shipped, the article contained pesticide chemicals, namely, aldrin and dieldrin, which were unsafe within the meaning of 408(a), since the quantity of such pesticide chemicals on potatoes was not within the limits of the tolerances prescribed by regulations.

DISPOSITION: 1-2-63. Consent—destruction.

28765. Cucumber chips (pickles). (F.D.C. No. 48060. S. No. 81-546 T.)

QUANTITY: 48 cases, 4 jars each, at Philadelphia, Pa.

SHIPPED: Between 8-2-62 and 8-6-62, from Camden, N.J., by Kaplan & Zubrin.

LABEL IN PART: (Jar) "Miller's Best Kosher Cucumber Chips * * * Net Contents 1 Fl. Gallon—Net Dr. Wt. 96 Ozs. Packed For Atlas Wholesale Grocery Co. Phila., Pa."

RESULTS OF INVESTIGATION: Examination showed that the article was short volume and short drained weight.

LIBELED: 8-21-62, E. Dist. Pa.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents, since the label statements “Net Contents 1 Fl. Gallon” and “Net Dr. Wt. 96 Ozs.” were inaccurate.

DISPOSITION: 10-5-62. Default—ordered distributed to charitable institutions.

28766. Pickles. (F.D.C. No. 48499. S. Nos. 16-981/2 V.)

QUANTITY: 112 cases, each containing 12 12-oz. jars of sweet gherkins; and 334 cases, each containing 12 12-oz. jars of sweet gherkins, at Indianapolis, Ind.

SHIPPED: 10-19-62 and 11-9-62, from Celina, Ohio, by Stokely-Van Camp, Inc.

LABEL IN PART: (Jar) “Stokely’s Finest Sweet Gerkins [or “Sweet Pickles”]
* * * Dist. By Stokely-Van Camp, Inc., Indianapolis, Indiana.”

LIBELED: 1-4-63, S. Dist. Ind.

CHARGE: 402(a)(3)—contained insects and insect fragments when shipped.

DISPOSITION: 2-28-63. Default—destruction.

TOMATOES AND TOMATO PRODUCTS

28767. Canned tomatoes. (F.D.C. No. 48470. S. No. 47-141 V.)

QUANTITY: 180 cases, each containing 24 1-lb. cans, at Murphysboro, Ill.

SHIPPED: 9-3-62, from Campbellsburg, Ind., by Preston Rider Packing Co.

LABEL IN PART: (Can) “Rider’s Best * * * Tomatoes Preston Rider Packing Co., Campbellsburg, Ind.”

LIBELED: 11-29-62, E. Dist. Ill.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 1-2-63. Default—destruction.

28768. Canned tomatoes. (F.D.C. No. 48379. S. No. 18-670 V.)

QUANTITY: 150 cases, 24 1-lb. cans each, at Sayre, Okla.

SHIPPED: 9-19-62, from Pea Ridge, Ark., by Pea Ridge Canning Co.

LABEL IN PART: (Can) “Rogers Brand Hand Packed Tomatoes * * * Packed by Pea Ridge Canning Co. Division of Rogers Vinegar Co. Rogers, Arkansas.”

LIBELED: 12-12-62, W. Dist. Okla.

CHARGE: 402(a)(3)—when shipped, contained *Drosophila* and scavenger fly eggs, and *Drosophila*, scavenger and housefly maggots; 402(a)(4)—prepared and packed under insanitary conditions; and 403(h)(1)—the quality of the article fell below the standard of quality for canned tomatoes since the article contained tomato peel in excess of one square inch per pound of canned tomatoes, and its label failed to bear a statement that it fell below such standard.

DISPOSITION: 1-9-63. Default—97 cases delivered to a Federal institution for use as animal feed.

28769. Canned tomatoes. (F.D.C. No. 48462. S. No. 24-794 V.)

QUANTITY: 155 cases, 24 1-lb. cans, at Youngstown, Ohio.

SHIPPED: 9-9-62, from Bethlehem, Md., by J. T. Harrison & Associates.

LABEL IN PART: (Can) “JD Garden Gem Tomatoes.”

LIBELED: 12-11-62, N. Dist. Ohio.

CHARGE: 402(a)(3)—contained *Drosophila* fly eggs and maggots when shipped.
DISPOSITION: 1-10-63. Default—destruction.

28770. Canned tomatoes. (F.D.C. No. 48368. S. No. 6-705 V.)

QUANTITY: 79 cases, each containing 24 1-lb. 12-oz. cans, at Haverhill, Mass.

SHIPPED: 9-18-62, from Trappe, Md., by Harrison & Associates.

LABEL IN PART: (Can) "JD Garden Gem Tomatoes * * * Distributed By J. T. Harrison & Associates Easton, Maryland."

LIBELED: 11-16-62, Dist. Mass.

CHARGE: 402(a)(3)—contained fly eggs and maggots when shipped.

DISPOSITION: 1-14-63. Default—destruction.

28771. Canned tomatoes. (F.D.C. No. 48459. S. No. 47-142 V.)

QUANTITY: 151 cases, 24 1-lb. cans each, at Cape Girardeau, Mo.

SHIPPED: 9-3-62, from Campbellsburg, Ind., by Preston Rider Packing Co.

LABEL IN PART: (Can) "Riders Best * * * Tomatoes Preston Rider Packing Co."

LIBELED: 11-26-62, E. Dist. Mo.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 1-23-63. Default—destruction.

28772. Canned tomatoes. (F.D.C. No. 48408. S. Nos. 29-940 V, 55-902 V.)

QUANTITY: 1,650 cases, 24 1-lb. cans each, at Kansas City, Kans.

SHIPPED: Between 8-21-62 and 10-11-62, from Point Lookout, Mo., by School of the Ozarks.

LABEL IN PART: (Can) "The School of the Ozarks Tomatoes Packed by The School of the Ozarks Point Lookout Missouri."

LIBELED: 12-17-62, Dist. Kans.

CHARGE: 402(a)(3)—while held for sale, contained a decomposed substance; and 403(h)(1)—when shipped, the quality of the article fell below the standard of quality for canned tomatoes, since the strength and redness of color of the tomatoes in the container was less than that prescribed for standard quality tomatoes, and the label failed to bear a statement that the article fell below such standard.

DISPOSITION: 3-21-63. Default—destruction.

28773. Tomato catsup. (F.D.C. No. 48496. S. No. 17-527 V.)

QUANTITY: 119 cases, each containing 24 14-oz. btls., at Woodlawn, Ohio.

SHIPPED: 10-24-62 and 10-30-62, from Sunman, Ind., by Naas Foods, Inc.

LABEL IN PART: (Btl.) "Kroger Tomato Catsup * * * Distributed by The Kroger Co. Cincinnati 1, O."

LIBELED: 1-7-63, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 2-25-63. Default—one case released to the Food and Drug Administration, the remainder destroyed.

28774. Tomato puree. (F.D.C. No. 48398. S. No. 53-397 V.)

QUANTITY: 49 cases, 6 6-lb. 9-oz. cans each, at Seattle, Wash.

SHIPPED: 7-30-62, from Oakland, Calif.

LABEL IN PART: (Can) "Merlino Buon Gusto Fancy Heavy Tomatoe Puree * * * Distributors Angelo Merlino & Sons, Seattle, Wash."

LIBELED: 12-5-62, W. Dist. Wash.

CHARGE: 402(a)(3)—contained decomposed substance while held for sale.

DISPOSITION: 1-7-63. Default—destruction.

28775. Pizza sauce (tomato product). (F.D.C. No. 48385. S. No. 39-789 V.)

QUANTITY: 50 cases, each containing 6 cans, at New York, N.Y.

SHIPPED: 9-16-62, from Vineland, N.J., by La Primadora Food Products, Inc.

LABEL IN PART: (Can) "La Primadora Brand Extra Heavy Pizza Sauce California Style * * * Packed By La Primadora Food Products, Inc. Vineland, New Jersey Contents: 6 Lbs. 6 Oz."

LIBELED: 11-28-62, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained fly eggs and maggots; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 1-3-63. Default—destruction.

MEAT PRODUCTS AND POULTRY

28776. Smoked pork shoulders. (F.D.C. No. 48361. S. No. 42-085 V.)

QUANTITY: 14 boxes, each containing 6 smoked pork shoulder picnics, at Mount Holly, N.J.

SHIPPED: 10-24-62, from Philadelphia, Pa., by Robert A. Potts.

LIBELED: 11-26-62, Dist. N.J.

CHARGE: 402(a)(3)—contained decomposed pork shoulders when shipped.

DISPOSITION: 1-10-63. Default—destruction.

28777. Dressed chickens. (F.D.C. No. 48292. S. No. 51-201 T.)

QUANTITY: 425 boxes, each containing 18 chickens, at Portland, Oreg.

SHIPPED: 8-4-61, from Russellville, Ark.

LIBELED: On or about 11-16-62, Dist. Oreg.

CHARGE: 402(a)(3)—contained decomposed chickens while held for sale.

DISPOSITION: 12-19-62. Default—destruction.

NUTS AND NUT PRODUCTS*

28778. Unshelled brazil nuts. (F.D.C. No. 48428. S. No. 4-411 V.)

QUANTITY: 44 cases, each containing 24 1-lb. boxes, at Baltimore, Md.

SHIPPED: 11-8-62 and 11-15-62, from New York, N.Y., by Graham Co., Inc.

LABEL IN PART: (Box) "Redbow Large Polished Brazil Nuts * * * Packed by The Graham Co., Inc., New York, N.Y."

LIBELED: 12-17-62, Dist. Md.

*See also Nos. 28723, 28784.

CHARGE: 402(a)(3)—contained rancid, moldy, decomposed nuts, and was otherwise unfit for food by reason of discolored, bitter, shriveled nuts and empty shells, when shipped.

DISPOSITION: 1-11-63. Default—destruction.

28779. Shelled Spanish peanuts. (F.D.C. No. 48414. (S. Nos. 52-732 V, 52-736 V.)

QUANTITY: 250 100-lb. bags at Seattle, Wash.

SHIPPED: 10-17-62, from Durant, Okla., by Durant Peanut Co.

LABEL IN PART: (Tag) "Spanish Shelled Split Peanuts * * * De Leon Peanut Company De Leon, Texas Durant Peanut Company Branch of De Leon Peanut Company Durant, Oklahoma."

LIBELED: 12-11-62, W. Dist. Wash.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 1-4-63. Consent—claimed by Durant Peanut Co. Segregated; 1,600 lbs. destroyed.

28780. Shelled pecans. (F.D.C. No. 47782. S. No. 16-444 T.)

QUANTITY: 15 30-lb. cases at Nashville, Tenn.

SHIPPED: 6-9-62, from Birmingham, Ala., by Marx Bros., Inc.

LABEL IN PART: "Tubby Jr. Brand Pecan Pieces Medium [or "Large Medium"] Packed by Marx Brothers, Birmingham, Alabama."

LIBELED: 6-26-62, M. Dist. Tenn.

CHARGE: 402(a)(3)—contained insect larvae and insect parts; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 12-28-62. Consent by Marx Bros., Inc., claimant, on the ground that the article was adulterated when introduced into interstate commerce, claimant continuing to deny the allegation that the food was packed under insanitary conditions in its plant; ordered released to a Government institution for use in animal feed.

28781. Shelled walnuts. (F.D.C. No. 48394. S. No. 52-680 V.)

QUANTITY: 12 ctns. at Seattle, Wash.

SHIPPED: 10-16-62, from Visalia, Calif., by Associated Nut Growers.

LABEL IN PART: (Ctn.) "Packed by Associated Nut Growers Visalia, Calif. * * * California Shelled Walnuts Light Amber Halves and Pieces 25 Lbs. Net Weight."

LIBELED: 12-5-62, W. Dist. Wash.

CHARGE: 402(a)(3)—contained insects, live insect larvae, and insect-damaged nut meats; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 1-4-63. Default—destruction.

28782. Unshelled peanuts. (F.D.C. No. 48503. S. No. 48-005 V.)

QUANTITY: 12 100-lb. bags at Honolulu, Hawaii.

SHIPPED: 6-21-62, from Suffolk, Va.

LIBELED: 1-7-63, Dist. Hawaii.

CHARGE: 402(a)(3)—contained insects and insect excreta while held for sale.

DISPOSITION: 1-31-63. Default—destruction.

28783. Unshelled walnuts. (F.D.C. No. 48491. S. No. 45-444 V.)

QUANTITY: 9 50-lb. bags at Springfield, Mo., in possession of Fadler Produce Co.

SHIPPED: 10-15-62, from outside the State of Missouri.

LIBELED: On or about 12-21-62, W. Dist. Mo.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-5-63. Default—delivered to a public institution for use as animal feed.

28784. Peanut butter, shelled peanuts, flour, raisins, egg noodles, candy bars, and rolled oats (4 criminal cases). (F.D.C. Nos. 46672, 47317, 47360, 47362. S. Nos. 50-138 R, 67-244 R; 18-375/7 T, 18-483 T, 47-986/8 T; 18-715/6 T, 20-163 T; 18-308/9 T, 19-546/7 T, 19-550 T.)

INFORMATIONS FILED: Fort Worth Division, Information No. 10302. 2-27-62, N. Dist. Tex., against Kimbell Milling Co., t/a Kimbell Food Products Co., a corporation, Fort Worth, Tex., Kay Kimbell, president, C. Binkley Smith, vice president, and Cecil T. Mathews, plant superintendent.

Sherman Division, Information No. 1302. On or about 8-10-62, E. Dist. Tex., against Kimbell Milling Co., a corporation, t/a Kimbell-Diamond Milling Co., Denton, Tex., Kay Kimbell, president, C. Binkley Smith, vice president, and Dewey C. Morrow, mill superintendent.

Pecos Division, Information No. 10389. 9-21-62, W. Dist. Tex., against H. O. Wooten Grocer Co., a corporation, Odessa, Tex., Kay Kimbell, president, A. L. Scott, vice president, and Charles G. Lethcoe, manager.

Sherman Division, Information No. 1304. 9-18-62, E. Dist. Tex., against Kimbell Diamond Co., a corporation, t/a Kimbell-Sherman Co., Sherman, Tex., Kay Kimbell, president, A. L. Scott, general manager, and Austin Presley, manager.

ALLEGED VIOLATIONS: Fort Worth Division, Information No. 10302. Between 12-9-60 and 12-19-60, while shelled peanuts were being held for sale after shipment in interstate commerce, the defendants caused the article to be placed in a building accessible to rodents and caused the article to be exposed to contamination by rodents, which acts resulted in the article being adulterated. In addition, on 3-25-61, the defendants caused a number of jars of peanut butter which were adulterated, to be shipped from Fort Worth, Tex., to Albuquerque, N. Mex.

Sherman Division, Information No. 1302. Between 10-27-61 and 11-15-61, the defendants caused a number of bags of Kimbell's Enriched Flour and Sunnyfield Self-Rising Enriched Flour, which were adulterated, to be shipped from Denton, Tex., to Camden, Ark., Durant, Okla., and Shreveport, La.

Pecos Division, Information No. 10389. Between 12-5-60 and 11-16-61, while quantities of seedless raisins and egg noodles were being held for sale after shipment in interstate commerce, the defendants caused the articles to be placed in a building accessible to insects and caused the articles to be exposed to contamination by insects, which acts resulted in the articles being adulterated.

Sherman Division, Information No. 1304. Between 3-29-61 and 9-11-61, while quantities of candy bars, rolled oats, egg noodles, and flour were being held for sale after shipment in interstate commerce, the defendant caused the articles to be placed in a building that was accessible to insects and caused the articles to be exposed to contamination by insects, which acts resulted in the articles being adulterated.

LABEL IN PART: (Jar) "Kimbell's Peanut Butter Net Wt. 1 lb. 8 ozs. Kimbell Food Products Co. Fort Worth, Texas"; (bag) "Sunnyfield Self-Rising Enriched Flour The Great Atlantic & Pacific Tea Co., Inc. New York, N.Y. Distributor"; and (bag) "Kimbell's Enriched Flour Kimbell-Diamond Milling Co. General Offices Fort Worth, Texas."

CHARGE: Fort Worth Division, Information No. 10302, 402(a)(3)—the shelled peanuts contained rodent urine; 402(a)(4)—the shelled peanuts were held under insanitary conditions; 402(a)(3)—the peanut butter contained rodent hairs; 402(a)(4)—peanut butter had been prepared and packed under insanitary conditions.

Sherman Division, Information No. 1302, 402(a)(3)—contained insects and rodent urine; 402(a)(4)—prepared and packed under insanitary conditions.

Pecos Division, Information No. 10389, 402(a)(3)—contained live and dead insects; 402(a)(4)—held under insanitary conditions.

Sherman Division, Information No. 1304, 402(a)(3)—contained insects; 402(a)(4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: The Pecos Division Information and the Sherman Division Informations numbered 1302 and 1304, were transferred by consent to the Northern Dist. of Tex., and were filed there, on 10-15-62, as Informations numbered 10389, 10390, and 10391, respectively. On 12-20-62, Kimbell Milling Co., t/a Kimbell Food Products Co., fined \$1,000, Kay Kimbell fined \$200, C. Binkley Smith fined \$200, and C. T. Mathews fined \$200; Kimbell Milling Co., t/a Kimbell-Diamond Milling Co., fined \$3,500, Kay Kimbell fined \$700, C. Binkley Smith fined \$700, and Dewey C. Morrow fined \$700; H. O. Wooten Grocer Co. fined \$1,500, Kay Kimbell fined \$300, A. L. Scott fined \$300, and C. G. Lethcoe fined \$300; Kimbell Diamond Co., t/a Kimbell-Sherman Co., fined \$2,500, Kay Kimbell fined \$500, A. L. Scott fined \$500, and Austin Presley fined \$500.

OILS AND FATS

28785. Edible oil. (F.D.C. No. 48377. S. No. 6-101 V.)

QUANTITY: 15 cases, each containing 6 1-gal. cans, at East Providence, R.I.

SHIPPED: 10-10-62, from Boston, Mass., by C. Pappas Co., Inc.

LABEL IN PART: (Can) "Stella D'Oro Salad Oil * * * Containing 80% Choice Cottonseed Oil 20% Pure Imported Olive Oil Blended & Packed by C. Pappas Co., Inc. Boston, Mass." and (case) "Stella D'Oro Salad Oil 80% Pure Vegetable Oil 20% Olive Oil Packed by C. Pappas Company, Inc. Boston, Mass."

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 10 percent olive oil.

LIBELED: 11-23-62, Dist. R.I.

CHARGE: 402(b)(1)—when shipped, the valuable constituent, olive oil, had been in part omitted or abstracted therefrom; 402(b)(2)—cottonseed oil had been substituted in part for olive oil; and 403(a)—the label statements “20% Pure Imported Olive Oil” and “20% Olive Oil” were false and misleading as applied to an article containing less than 20 percent olive oil.

DISPOSITION: 12-11-62. Consent—claimed by C. Pappas Co., Inc., and re-blended with additional olive oil.

OLEOMARGARINE

28786. Margarine. (F.D.C. No. 47741. S. No. 32-395 T.)

QUANTITY: 53 cases, 24 12-oz. pkgs. each, at Los Angeles, Calif.

SHIPPED: Between 4-9-62 and 5-22-62, from Riverside, Calif., by Town Food Co.

LABEL IN PART: (Pkg.) “Town Margarine * * * Unsalted * * * Artificially Flavored, Artificially Colored With Carotene, A Natural Color From Carrots, With Finely Ground Soy Bean Added Town Food Co., Riverside, Calif. * * * Contains Non Hydrogenated Liquid Oils * * * Fortified with Vitamin ‘A’ * * * 2 ozs. supplies 47% of an adult’s minimum daily Vitamin A.”

RESULTS OF INVESTIGATION: Investigation showed that the article was sold in the same State in which it was produced. Analysis showed that the article contained approximately 18.6 percent of the amount of vitamin A required by the standard of identity for margarine with added vitamin A.

LIBELED: 7-19-62, S. Dist. Calif.

CHARGE: 402(b)(1)—when sold and while held for further sale, the valuable constituent, vitamin A, had been in part omitted from the article; 403(a)—the label statement “2 ozs. supplies 47% of an adult’s minimum daily Vitamin A” was false and misleading, as applied to a product containing less than the declared amount of vitamin A; and 403(g)(1)—the article failed to conform to the definition and standard of identity for margarine with added vitamin A, since it contained less than 15,000 U.S. Pharmacopeia units of vitamin A per pound.

DISPOSITION: 10-16-62. Default—delivered to charitable institutions.

SPICES, FLAVORS, AND SEASONING MATERIALS

28787. Cayenne pepper. (F.D.C. No. 48340. S. No. 18-148 V.)

QUANTITY: 4 200-lb. drums at Canutillo, Tex.

SHIPPED: 10-3-62, from Glendale, Calif.

LIBELED: 10-26-62, W. Dist. Tex.

CHARGE: 402(a)(3)—contained mold while held for sale.

DISPOSITION: 1-8-63. Default—destruction.

28788. Garlic. (F.D.C. No. 48426. S. Nos. 18-139/40 V.)

QUANTITY: 127 50-lb. bags at Laredo, Tex.

SHIPPED: 10-18-62, from Watsonville, Calif.

LIBELED: 12-21-62, S. Dist. Tex.

CHARGE: 402(a)(3)—contained insects, insect larvae, and insect pupae while held for sale.

DISPOSITION: 1-7-63. Consent—claimed by Antonio R. Rodriguez, t/a La India Packing Co., Laredo, Tex. Segregated; 381 pounds destroyed.

28789. Mustard seed. (F.D.C. No. 48583. S. Nos. 19-513/14 V.)

QUANTITY: 108 100-lb. bags at Dallas, Tex., in possession of U.S. Coffee & Tea Co.

SHIPPED: Between 9-5-62 and 12-10-62, from Tacoma, Wash., or from the State of Montana, from New York, N.Y., and from Lethbridge, Canada.

LIBELED: On or about 1-25-63, N. Dist. Tex.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 3-11-63. Default—destruction.

28790. Poppyseed. (F.D.C. No. 48343. S. No. 24-055 V.)

QUANTITY: 8 110-lb. bags at Detroit, Mich.

SHIPPED: 6-5-62, from New York, N.Y.

LIBELED: 10-30-62, E. Dist. Mich.

CHARGE: 402(a)(3)—contained moldy poppyseed while held for sale.

DISPOSITION: 12-5-62. Default—destruction.

28791. Solar salt. (F.D.C. No. 48134. S. Nos. 62-121/23 T.)

QUANTITY: 58 tons, at Chelsea, Mass., in possession of Collins-Lee Co.

SHIPPED: Prior to 5-15-62, from Turks Island, British West Indies.

RESULTS OF INVESTIGATION: Investigation disclosed that the article had been held under insanitary conditions, at Chelsea, Mass., by Eastern Minerals, Inc., having been piled directly on a concrete dock in an area unsheltered and unprotected from the elements, birds, rodents, and other miscellaneous filth; and that the article had been delivered to the Collins-Lee Co., where it was to be used in the preparation of salted fish and where insanitary conditions also existed.

LIBELED: 10-1-62, Dist. Mass.

CHARGE: 402(a)(3)—contained sand, seashells, wood splinters, fly and other insect parts and fragments, and other miscellaneous extraneous material; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-28-63. Default—ordered donated to a governmental agency for nonfood purposes.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE*

28792. Special dietary foods. (F.D.C. No. 46032. S. Nos. 85-361/3 R, 85-366 R, 85-370/2 R, 85-375 R.)

QUANTITY: 145 300-tablet btls. of Foenugreek tablets; 10 cases, 12 1-lb. bags each, of fenugreek seeds; 118 300-tablet btls. of mangrove tablets; 4 cases, 12 1-lb. bags each, of Vitality cereal; 14 1-lb. 14-oz. bags of millet meal pancake and muffin mix; 90 1-lb. bags of Protein cookie mix; 107 1-lb. bags of Protein doughnut mix; and 10 cases, 12 1-lb. 14-oz. bags each, of Vitality cereal, at Tulsa, Okla.

SHIPPED: Between 9-22-60 and 4-5-61, from Boulder, Colo., by L. Washburn, Inc.

*See also Nos. 28747, 28799.

LABEL IN PART: (Btl.) "Foenugreek Tablets * * * L. Washburn, Inc. Boulder Colorado Tablets are made of finely powdered, raw, imported Foenugreek Seed with edible bone meal added as a binder"; (bag) "Washburn's Imported Fenugreek seeds"; (btl.) "Washburn's Dehydrated Mangrove Leaf in tablets * * * 300 7.7 Grain ($\frac{1}{2}$ gram) Tablets * * * made from pulverized, dehydrated Mangrove Leaves and Bone Meal added as binder"; (bag) "Washburn's Vitality Cereal * * * whole grain digestible protein cereal"; (bag) "Washburn's Millet Meal Pancake and Muffin Mix with Sesame Seed Meal"; (bag) "Mary Washburn's Protein Cookie Mix * * * High in Vitamins, Minerals and complete Proteins Non-fattening—Alkaline"; (bag) "Net Weight 1 Lb. Mary Washburn's Protein Doughnut Mix * * * Non-fattening; and (bag) "Washburn's Vitality Cereal * * * whole grain digestible protein cereal."

LIBELED: 6-27-61, N. Dist. Okla.

CHARGE: 403(a)—when shipped, the name "Millet Meal Pancake and Muffin Mix With Sesame Seed" was false and misleading, since the article contained ingredients in addition to millet meal and sesame seed; and the name "Washburn's Dehydrated Mangrove Leaf" was false and misleading, since the article contained bone meal in addition to dehydrated mangrove leaf; the labels contained false and misleading representations: (Vitality cereal) that it contained an unusual balance of body-building elements, vitamins, minerals, proteins, carbohydrates, and enzymes to promote vitality, and that it was rich in biologically perfect protein: (millet meal pancake and muffin mix) that it was a protein mix which contained complete cell-building proteins equal in food value to meat; was nonfattening; and the only grain that contained all ten essential amino acids; and that it was adequate and effective to lower the cholesterol level of the blood; (Protein cookie mix) that it was a protein mix which was high in complete protein and nonfattening; a "boon to the stomach"; and adequate and effective to build energy without gain in weight; (Protein doughnut mix) that it was a protein mix which was high in complete body-building proteins and non-fattening; and was adequate and effective to build energy instead of weight; filled with body-building vitamins and minerals; agreed with the tenderest digestive system; and contained no roughage; and (mangrove tablets) that it was of unusual benefit for special dietary use by reason of its content of trace minerals and protein.

The mangrove tablets and Foenugreek tablets and seed were alleged also to be misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 7080.

DISPOSITION: L. Washburn, Inc., intervened and filed claim to the articles. On 7-26-61, the court ordered the case transferred to the District of Wyoming. Claimant, without admitting the allegations in the libel, consented to a decree, and the court entered a decree of condemnation on 9-29-61, and ordered the articles released under bond to be brought into compliance with the law. The claimant failed to repossess the articles and, on 4-25-62, the court ordered that the articles be destroyed.

28793. Vitamin tablets. (F.D.C. No. 46888. [S. No. 28-202 T.)

QUANTITY: 1 5,000-tablet drum and 1 500-tablet jar, at Mission, Kans.

SHIPPED: 6-10-58, from St. Louis, Mo.

LABEL IN PART: (Drum and jar) "Date 6-10-58 * * * Each Two Tablets Contain: Vitamin B-1 2 mg. * * * Vitamin C (containing Rose Hips) 20 mg."

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 50 percent of the declared amount of vitamin B-1 and 70 percent of the declared amount of vitamin C.

LIBELED: 1-5-62, Dist. Kans.

CHARGE: 402(b)(1)—while held for sale, the valuable constituents, vitamin B-1 and vitamin C, had been in part omitted or abstracted from the article; and 403(a)—the label statements "Vitamin B-1 2 mg. * * * Vitamin C * * * 20 mg." were false and misleading as applied to a product containing less than the declared amounts of these vitamins.

The libel alleged also that another article was adulterated and misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 7101.

DISPOSITION: 5-23-62. Default—destruction.

28794. Vitamin and mineral tablets. (F.D.C. No. 48220. S. Nos. 54-126/7 T.)

QUANTITY: 3 drums, each containing 15,000 Rich-L-Ron tablets; 14 ctns., containing 36 28-tablet pkgs. each, of Rich-L-Ron tablets; and 44 ctns., containing 36 28-tablet pkgs. each, of Ri-Vita-Min tablets, at Warren, Ohio, in possession of Richfield Pharmaceuticals.

SHIPPED: 5-19-62, from Orangeville, Ill., by Richfield Pharmaceuticals.

LABEL IN PART: (Pkg.) "Rich-L-Ron—RLR 1000 E.C. Maroon Each Tablet Contains: * * * Folic Acid, U.S.P. 0.75 Mg. * * * Dosage: 1 to 3 tablets after each meal * * * Manufactured for Richfield Pharmaceuticals Orangeville, Illinois" and (pkg.) "Ri-Vita-Min—RV 1000 S.C. Crimson Each Tablet Contains: * * * Folic Acid U.S.P. 0.5 mg. * * * Dose: 1 or 2 tablets daily or as directed * * * Manufactured for Richfield Pharmaceuticals Orangeville, Illinois."

RESULTS OF INVESTIGATION: The dealer had originally been located in Orangeville, Ill., and had subsequently shipped the tablets to Warren, Ohio, where they were repacked into packages and labeled as described above.

LIBELED: 10-16-62, N. Dist. Ohio.

CHARGE: 402(a)(2)(C)—when shipped, the articles contained a food additive, namely, folic acid, which was unsafe within the meaning of 409, since it and its use or intended use were not in conformity with a regulation or exemption in effect pursuant to 409.

DISPOSITION: 1-4-63. Default—destruction.

28795. Instant Protein. (F.D.C. No. 45754. S. No. 12-862 R.)

QUANTITY: 11,586 8-oz. cans at Chicago, Ill., in possession of Rexall Drug Co.

SHIPPED: 2-14-61, from St. Louis, Mo., by Rexall Drug Laboratory.

LABEL IN PART: (Can) "Rexall Chocolate Instant Protein * The Natural Protein Concentrate * * * Rexall Drug Company Pharmaceutical Chemists * * * St. Louis."

ACCOMPANYING LABELING: Leaflet entitled "Now Live All Of The Day All Of The Way if protein lack is slowing you down."

LIBELED: 4-28-61, N. Dist. Ill.

CHARGE: 403(a)—when shipped and while held for sale, the labeling of the article contained false and misleading representations that two heaping teaspoonsful (1 oz.) of the article would supply significant amounts of quick energy because it contained protein; would satisfy hunger and significantly improve nutrition while reducing calories; was high in protein although low in calories; was instant protein and a natural protein concentrate; and that other complete proteins on the market were not balanced proteins; 403(a)—the statement "Chocolate" was false and misleading since the article did not contain chocolate; and 403(j)—the article purported to be and was represented as a food for special dietary use and its label failed to bear such information concerning its dietary properties as the Secretary has determined to be, and by regulations prescribed as necessary, since the article contained the nonnutritive artificial sweetener, sodium cyclamate, and its label failed to bear, as required by regulations, a statement of the percent by weight of such constituent, and, in juxtaposition with the name of such constituent, the word "nonnutritive."

The article was alleged also to be misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 7108.

DISPOSITION: 4-30-62. Consent—claimed by Rexall Drug & Chemical Co. and released under bond for relabeling.

28796. Nutri-Seal Admix. (F.D.C. No. 44689. S. No. 43-563 R.)

QUANTITY: 54 cases, each containing 4 1-gal. btls. of Nutri-Seal Admix at Caldwell, Idaho; and 10 1-gal. btls. of Nutri-Seal Admix and 1,160 ½-gal. ctns. of a 2 percent skim milk product containing Nutri-Seal Admix at Boise and Nampa, Idaho, in possession of Home Dairies Co.

SHIPPED: Between 9-8-59 and 6-21-60, from Los Angeles, Calif., by Nutri-Seal Corp.

LABEL IN PART: (Btl.) "Net Contents 128 Fluid Ounces 9-Vitamin Concentrate Nutri-Seal Admix, Nutri-Seal Corporation, * * * Los Angeles 19, California" and (ctn. of the 2 percent skim milk product containing the Admix) "Home Dairies Enriched Fortified 2% Lo-Fat with Nutri-Seal 9-Vitamins * * * Grade 'A' Fortified and Enriched Skim Milk."

ACCOMPANYING LABELING: Folders reading in part "Home Dairies, Nature's Finest, Most Complete Food" and "Home Dairies Enthusiastically Announces"; and 24 cases, each containing 300 empty ½-gal. cartons which bore labels that were the same as the label on the above-described cartons.

RESULTS OF INVESTIGATION: The accompanying labeling had been printed for Home Dairies Co. and was used in promoting sales of the 2 percent skim milk product containing the Nutri-Seal Admix.

All of the Nutri-Seal Admix had been shipped to Caldwell, Idaho, consigned to the shipper, Nutri-Seal Corp. Some of the Admix had been distributed to Home Dairies Co. after which a portion was incorporated into the 2 percent skim milk product.

LIBELED: 7-1-60, Dist. Idaho; amended libel on or about 11-28-61.

CHARGE: (Original libel), 403(a)—while held for sale, the labeling of the Nutri-Seal Admix at Boise and Nampa, Idaho, both before and after being mixed with the 2 percent skim milk product contained false and misleading representations that "2% Lo-Fat * * * Skim Milk" with "Nutri-Seal Admix" added was more nutritious than whole milk, that the article was low in fat and low in calories, that the natural vitamins in milk were in the butterfat and that if the butterfat content was reduced, all such vitamins were also reduced, that the "Nutri-Seal Admix" was recommended by the U.S. Food and Drug Administration and the National Research Council to be added to 2 percent skim milk, that the "Nutri-Seal Admix," when added to 2 percent skim milk, would act as an antioxidant to preserve unsaturated fatty acids in the body, and would promote protein, fat, and cellular metabolism in the body, and that the foods listed in the chart in the folder entitled "Home Dairies Nature's Finest Most Complete Food," of vitamins A, D₂, E, C, B₁, B₂, B₆, niacinamide, and pantothenol in the articles were the "Sources" of such vitamins; and (amendment to libel), 403(a)—when shipped, the labeling of the Nutri-Seal Admix at Caldwell, Idaho, contained statements which were misleading since they suggested that the article, a vitamin concentrate, was suitable as an addition to cottage cheese and to creamed cottage cheese, whereas regulations did not permit the addition of vitamins to such foods.

The libel alleged also that the article was misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 7083.

DISPOSITION: On 12-6-60, a default decree of condemnation was entered against the 1-gal. btls. of Nutri-Seal Admix and 1/2-gal. cartons of the 2 percent skim milk product containing the Admix which were in possession of Home Dairies Co., at Boise and Nampa, Idaho. The decree provided that such articles should be destroyed except for 4 1-gal. bottles of the Admix, 25 empty half gal. cartons of 2 percent skim milk product and a number of folders which should be delivered to the Food and Drug Administration.

On 3-27-61, the Home Dairies Co., having filed claim for the 1/2-gal. empty milk cartons, a decree amending the decree of 12-6-60, was entered providing for the release under bond of the cartons for purpose of salvage.

On 11-30-61, the Nutri-Seal Corp., claimant for the 54 cases of Nutri-Seal Admix at Caldwell, Idaho, having denied that the article was misbranded as alleged in the original libel but not denying that the labeling contained statements that the article was suitable as an addition to cottage cheese as alleged in the amendment to the libel and having consented to the entry of the decree, judgment of condemnation was entered and the article was ordered released under bond for relabeling in compliance with the law. On 6-22-62, the claimant having decided not to relabel the article and agreeing to its disposition within the discretion of the court, an order was entered for destruction of the article.

28797. **Eastrone solution for poultry.** (F.D.C. No. 48032. S. No. 79-853 T.)

QUANTITY: 21 300-cc. btls. and 35 30-cc. btls. at St. Paul, Minn.

SHIPPED: 3-22-61 and 3-19-62, from Vineland, N.J., by Eastern Laboratories, Inc.

LABEL IN PART: (Btl. and ctn.) "Eastrone, a solution of diethylstilbestrol to be used only in drinking water for chickens. Each cc contains 50 mg. diethylstilbestrol solubilized and stabilized * * * Manufactured only by Eastern Laboratories, Inc., 1229-31 Washington Ave., Vineland, New Jersey. For veterinary use only. Caution use only according to enclosed directions."

ACCOMPANYING LABELING: Carton inserts entitled "Directions for Using Eastrone."

LIBELED: 9-21-62, Dist. Minn.

CHARGE: 402(a)(2)(C)—when shipped, the article contained a food additive, namely, diethylstilbestrol, which was unsafe within the meaning of 409, since it and its use, or intended use, were not in conformity with a regulation or exemption in effect pursuant to 409.

DISPOSITION: 11-6-62. Default—destruction.

28798. Eastrone solution for poultry. (F.D.C. No. 48235. S. Nos. 67-586/8 T.)

QUANTITY: 40 300-cc. btls. at Middlebury, Goshen, and Montpelier, Ind.

SHIPPED: Prior to 6-12-62, and between 7-9-62 and 8-17-62, from Vineland, N.J., by Eastern Laboratories, Inc.

LABEL IN PART: (Btl.) "Eastrone A Solution of Diethylstilbestrol To be used in drinking water for chickens Each cc contains 50 mg. Diethylstilbestrol * * * 300 cc. 1,000 doses * * * Manufactured Only by Eastern Laboratories, Inc., * * * Vineland, New Jersey. For Veterinary Use Only."

ACCOMPANYING LABELING: Leaflet entitled "Directions for Use . . . Eastrone."

LIBELED: 10-12-62, N. Dist. Ind.

CHARGE: 402(a)(2)(C)—when shipped, the article contained a food additive, namely, diethylstilbestrol, which was unsafe within the meaning of 409, since it and its use, or intended use, were not in conformity with a regulation or exemption in effect pursuant to 409.

DISPOSITION: 1-8-63. Default—destruction.

MISCELLANEOUS FOODS

28799. Flour enrichment mix. (F.D.C. No. 48061. S. No. 5-654 T.)

QUANTITY: 1 150-lb. drum and 2 200-lb. drums, at Baltimore, Md.

SHIPPED: 5-28-62, from Woodside, N.Y.

RESULTS OF INVESTIGATION: The article contained approximately 23 percent of the declared amount of vitamin D.

LIBELED: 8-22-62, Dist. Md.

CHARGE: 402(b)(1)—the valuable constituent, namely, vitamin D, had been in part omitted or abstracted from the article; and 403(a)—the label statement "Vitamin D 407,000 USP Units" was false and misleading.

DISPOSITION: 10-11-62. Default—destruction.

28800. Spaghetti dinner and salad mix. (F.D.C. No. 45880. S. Nos. 49-422/3 R, 49-930 R.)

QUANTITY: 236 cases, each containing 24 8-oz. pkgs. of spaghetti dinner, and 47 cases, each containing 24 pkgs. of salad mix, at Denver, Colo.

SHIPPED: Between 2-21-61 and 3-4-61, from Wichita, Kans., by American Beauty Macaroni Co.

LABEL IN PART: (Pkg.) "Italian Style Vitamin-Enriched Long Spaghetti Spaghetti Dinner * * * This package contains Long Spaghetti and a Packet of Spaghetti Sauce Seasoning You Will Need Tomato Paste * * * The American Beauty Macaroni Company" and "Salad Mix with Shel-Roni This Package contains Dainty Shell-Shaped Macaroni and Salad Seasoning Mix To Prepare A Tasty Salad (Just add Mayonnaise and garnish to taste) * * * Fixin's for a cold macaroni salad Vitamin-Enriched Shel-Roni * * * Manufactured By The American Beauty Macaroni Co."

LIBELED: 5-12-61, Dist. Colo.

CHARGE: 403(g) (2)—when shipped, the labels of the articles failed to bear the name of the food as specified in the definition and standard of identity, namely, "Enriched Spaghetti (Long)" and "Enriched Macaroni Product (Shells)"; and 403(j)—the articles purported to be and were represented as foods for special dietary use by reason of their vitamin and mineral content and their labels failed to bear, as required by regulations, a statement of the proportion of the minimum daily requirement for vitamin B₁, riboflavin, niacin or niacinamide, and iron supplied by such food when consumed in a specified quantity during a period of one day.

Spaghetti dinner: 403(a)—the name of the article "Italian Style Spaghetti Dinner" and the vignette showing elbow-shaped spaghetti and a sauce sprinkled with grated cheese, were misleading since the articles did not contain the ingredients needed to prepare a spaghetti dinner; and

Salad mix: 403(a)—the name of the article "Salad Mix With Shel-Roni," the vignette showing shell-shaped macaroni, lettuce, portions of fresh tomatoes, slices of green olives with pimento, pieces of green pepper, and chunks of tuna, and the statement "Fixin's for a cold macaroni salad," were misleading since the article did not contain the ingredients needed for a salad as depicted in the vignette.

DISPOSITION: The articles were claimed by American Beauty Macaroni Co., Kansas City, Kans. Written interrogatories were served on the claimant by the Government on 2-2-62. On 2-8-62, a decree was entered with the claimant's consent which condemned the articles by reason of the misbranding under 403(j). The claimant denied the articles were misbranded under 403(a) and 403(g) (2) and these issues were not adjudicated. The articles were destroyed.

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¹ (28702, 28704, 28743, 28796, 28800) Seizure contested.

² (28723, 28742) Prosecution contested.

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Atlas Wholesale Grocery Co.:		frozen shrimp-----	28752
cucumber chips (pickles)-----	28765	DeKalb Agricultural Association, Inc.:	
Bastian Wholesale Grocery Co.:		milo maize-----	28730
sugar and flour-----	28739	De Leon Peanut Co.:	
Beloit Milling Co.:		shelled Spanish peanuts-----	28779
pastry flour-----	28714	Delight Egg Farms, Inc.:	
Billingsley, W. F.:		frozen eggs-----	28744
fresh cabbage-----	28758	Dicillo, T. R.:	
Boat. <i>See</i> Malolo.		frozen eggs----- ²	28742
Bowman Produce Co.:		Dixie Candy & Fountain Supply:	
potatoes-----	28762	candy-----	28733
Brooklyn Baking Co.:		Durant Peanut Co.:	
flour-----	28711	shelled Spanish peanuts-----	28779
Campbell, A. R.:		E. & E. Pest Control. <i>See</i> Roswell Trading Co.	
milo maize-----	28730	Eastern Laboratories, Inc.:	
Certified Grocers of Florida, Inc.:		Eastrone solution for poultry--	28797, 28798
flour-----	28713	Eastern Minerals, Inc.:	
		solar salt-----	28791
		Eastern Products Co., Ltd.:	
		frozen shrimp-----	28752
		Estes, Frank:	
		crimped oats-----	28731

¹ (28702, 28704, 28743, 28796, 28800) Seizure contested.

² (28723, 28742) Prosecution contested.

³ (28718) Injunction issued.

	N.J. No.		N.J. No.
Fadler Produce Co.:		Kimbell Milling Co.:	
unshelled walnuts-----	28783	peanut butter, peanuts, flour,	
Farmers Union Elevator Co.:		raisins, egg noodles, candy	
wheat -----	28721	bars, and rolled oats-----	28784
Frito-Lay, Inc.:		Kimbell-Sherman Co. <i>See Kim-</i>	
cookies -----	28706	bell Diamond Co.	
cornmeal -----	28707	Kroger Co.:	
Fulham Bros., Inc.:		tomato catsup-----	28773
breeding and batter mix-----	28732	La Primadora Food Products,	
fish sticks-----	28751	Inc.:	
General Foods Corp. <i>See Max-</i>		pizza sauce (tomato product)-	28775
well House.		Laurinburg Milling Co.:	
Goodart, Judson:		self rising flour-----	28712
crimped oats-----	28731	Lethcoe, C. G.:	
Gourmet Seafoods, Inc.:		peanut butter, peanuts, flour,	
frozen grouper fillets-----	28750	raisins, egg noodles, candy	
Graham Co., Inc.:		bars, and rolled oats-----	28784
unshelled brazil nuts-----	28778	Lively, H. W.:	
Gulf Stream Quick Frozen Foods,		flour -----	28713
Inc.:		Malolo (boat) :	
frozen shrimp-----	28754	perch fillets-----	28749
Harrison, J. T., & Associates:		Marx Bros., Inc.:	
canned tomatoes-----	28769, 28770	shelled pecans-----	28780
Hellbaum, Harold:		Mathews, C. T.:	
wheat -----	³ 28718	peanut butter, peanuts, flour,	
Home Dairies Co.:		raisins, egg noodles, candy	
Nutri-Seal Admix-----	¹ 28796	bars, and rolled oats-----	28784
Hoover Milling Co. <i>See McDan-</i>		Maxwell House, Div. General	
iel, W. D.		Foods Corp.:	
Josephson, Lynn, Produce:		Maxwell House instant coffee_	¹ 28702
potatoes -----	28763	McDaniel, W. D.:	
Kaplan & Zubrin:		cornmeal -----	28709
cucumber chips (pickles)----	28765	Merlino, Angelo, & Sons:	
Kimbell, Kay:		tomato puree-----	28774
peanut butter, peanuts, flour,		Meyer, L., & Co., Inc.:	
raisins, egg noodles, candy		frozen eggs-----	¹ 28743
bars, and rolled oats-----	28784	Midland Elevators. <i>See Colo-</i>	
Kimbell Diamond Co.:		rado Milling & Elevator Co.	
peanut butter, peanuts, flour,		Moisha's:	
raisins, egg noodles, candy		canned tuna-----	28756
bars, and rolled oats-----	28784	Morrow, D. C.:	
Kimbell-Diamond Milling Co.		peanut butter, peanuts, flour,	
<i>See Kimbell Milling Co.</i>		raisins, egg noodles, candy	
Kimbell Food Products Co. <i>See</i>		bars, and rolled oats-----	28784
Kimbell Milling Co.		Naas Foods, Inc.:	
		tomato catsup-----	28772
		National Tea Co.:	
		Maxwell House instant coffee_	¹ 28702

¹ (28702, 28704, 28743, 28796, 28800).
Seizure contested.

³ (28718) Injunction issued.

	N.J. No.		N.J. No.
Nebraska Potato Shippers, Inc.:		Sawyer, G. B.:	
potatoes -----	28764	rice -----	28727
North American Food Distribut-		Schneider Bros., Inc.:	
ing Co.:		frozen eggs-----	28746
rice -----	28729	School of the Ozarks:	
Nutri-Seal Corp.:		canned tomatoes-----	28772
Nutri-Seal Admix-----	¹ 28796	Scott, A. L.:	
Ocoma Foods Co.:		peanut butter, peanuts, flour,	
frozen grouper fillets-----	28750	raisins, egg noodles, candy	
Oregon Egg & Poultry Co. See		bars, and rolled oats-----	28784
Dicillo, T. R.		Shirey, J. L.:	
Pacific Reefer Fisheries:		candy -----	28737
canned tuna-----	28756	Sloan, Ray:	
Pappas, C., Co., Inc.:		sorghum sirup mixture-----	28740
edible oil-----	28785	Smith, A. B.:	
Paramount Macaroni Manufac-		wheat cereal, unshelled pea-	
turing Co., Inc.:		nuts, and mixed nuts-----	² 28723
egg noodles-----	28716, 28717	Smith, C. B.:	
Pea Ridge Canning Co., Div. of		peanut butter, peanuts, flour,	
Rogers Vinegar Co.:		raisins, egg noodles, candy	
canned tomatoes-----	28768	bars, and rolled oats-----	28784
Potts, R. A.:		Standard Brands, Inc.:	
smoked pork shoulders-----	28776	tea -----	28703
Presley, Austin:		Steele Canning Co.:	
peanut butter, peanuts, flour,		canned butter beans-----	28759
raisins, egg noodles, candy		Stokely-Van Camp, Inc.:	
bars, and rolled oats-----	28784	pickles -----	28766
Preston Rider Packing Co.:		Sunbury Cheese Products:	
canned tomatoes-----	28767, 28771	grated cheese -----	28741
Purity Candy Co.:		Sunshine Food Products, Inc.:	
candy -----	28735	orange juice product-----	28757
Quick Frozen Foods, Inc.:		Sunshine Juice, Inc.:	
frozen shrimp-----	28754	orange juice product-----	28757
Rexall Drug Co.:		Taube, L. S., & Co.:	
Instant Protein-----	28795	potatoes -----	28762, 28763
Rexall Drug Laboratory:		Thrift Food Stores:	
Instant Protein-----	28795	macaroni products-----	28715
Richfield Pharmaceuticals:		Town Food Co.:	
vitamin and mineral tablets--	28794	margarine -----	28786
Riva Distributing Co.:		Trenton Grain Co.:	
drink mixes-----	¹ 28704	shelled corn-----	28748
Rogers Vinegar Co. See Pea		Tri-County Grain Co.:	
Ridge Canning Co.		wheat -----	³ 28718
Roswell Trading Co.:		United Packing Service:	
crimped oats-----	28731	butterscotch chips (candy)---	28734
		U.S. Coffee & Tea Co.:	
		mustard seed-----	28789
		Utah Wholesale Grocery Co.:	
		wheat cereal, unshelled pea-	
		nuts, and mixed nuts-----	² 28723

¹ (28702, 28704, 28743, 28796, 28800).
Seizure contested.

² (28723, 28742) Prosecution contested.

³ (28718) Injunction issued.

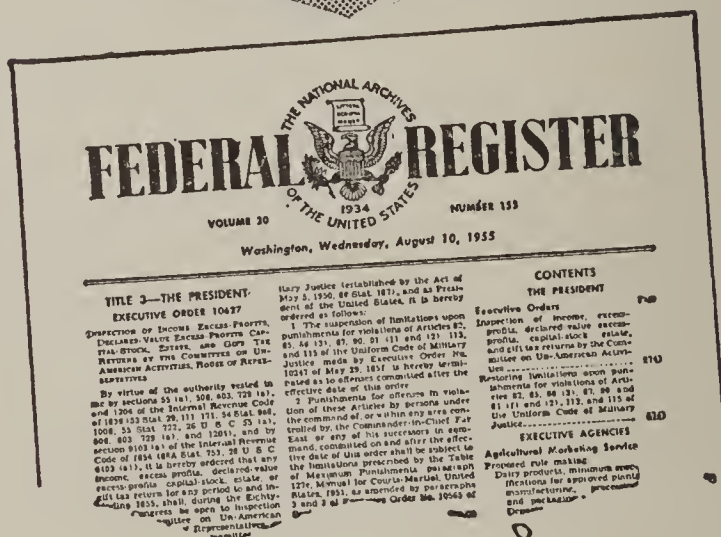
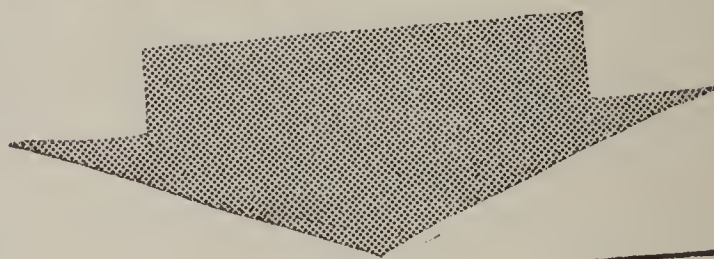
	N.J. No.		N.J. No.
Waldman's Fishco, Ltd.:		Wolch Nut & Candy Co.:	
frozen shrimp-----	28753	candy -----	28736
Wanberg Popcorn Co.:		Wooten, H. O., Grocer Co.:	
unpopped popcorn-----	28725	peanut butter, peanuts, flour,	
Washburn, L., Inc.:		raisins, egg noodles, candy	
special dietary foods-----	28792	bars, and rolled oats-----	28784
Wilton Elevator Co.:		Young, C. B.:	
wheat -----	28719	macaroni products-----	28715

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U.S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

U. S. DEPT. OF AGRICULTURE
NATIONAL AGRICULTURAL LIBRARY

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act] 1963

28801-28900

FOODS

CURRENT SERIAL RECORDS

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce, or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered after default, or consent, and, in one case, after a decree of partial dismissal; (2) criminal proceedings which were terminated upon pleas of guilty and nolo contendere and, in one case, upon a verdict of guilty after trial by jury; and (3) injunction proceedings terminated upon the entry of permanent injunctions by consent, and, in one case, dismissed after the terms of a temporary restraining order had been complied with. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal and injunction proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D.C., November 27, 1963.

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SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F.N.J. NOS. 28801-28900

Adulteration, Section 402(a) (2) (B), the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408(a); Section 402(a) (2) (C), the article contained a food additive which was unsafe within the meaning of Section 409; Section 402(a) (3), the article consisted in whole or in part of a filthy, putrid, or decomposed substance, or it was otherwise unfit for food; Section 402(a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it might have become contaminated with filth or might have been rendered injurious to health; Section 402(b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b) (2), a substance had been substituted in whole or in part for the article; Section 402(b) (3), inferiority had been concealed in some manner; Section 402(c), the article contained a color additive which was unsafe within the meaning of Section 706(a); Section 408(a), a poisonous or deleterious pesticide chemical, or a pesticide chemical not generally recognized, among qualified experts, as safe for use, added to a raw agricultural commodity, was deemed to be unsafe because no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare; Section 409, a food additive was deemed to be unsafe because the food additive and its use or intended use failed to conform to the terms of an effective exemption or because there was not in effect, or the food additive and its use or intended use failed to be in conformity with, a regulation prescribing conditions for safe use; and Section 706(a), a color additive was deemed to be unsafe because there was not in effect a regulation listing such additive for a particular use, and such additive was not exempted from certification.

Misbranding, Section 403(a), the labeling of the article was false and misleading; Section 403(b), the article was offered for sale under the name of another food; Section 403(e), the article was in package form, and it failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of the contents in terms of weight, measure or numerical count; Section 403(f), a word, statement, or other information required by or under authority of the Act to appear on the label or labeling was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; Section 403(g) (1), the article purported to be or was represented as a food for which a definition and standard of identity had been prescribed by regulations and it failed to conform to such definition and standard; Section 403(h), the article purported to be or was represented as (1) a food for which a standard of quality had been prescribed by regulations, and its quality fell below such standard or (2) a food for which a standard of fill of container had been prescribed by regulations and it fell below the applicable standard of fill of container; Section 403(i), the article was not subject to the provisions of Section 403(g) and (1) its label failed to bear the common or usual name of the article, and (2) the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient; and Section 403(k), the article contained artificial coloring, or a chemical preservative and failed to bear labeling stating that fact.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

28801. Cookies. (F.D.C. No. 48649. S. Nos. 18-351/2 V.)

QUANTITY: 30 cases, each containing 12 14-oz. bags of sugar cookies, and 15 cases, each containing 12 28-oz. bags of creme sandwich squares, at Houston, Tex.

SHIPPED: 2-4-63, from Marietta, Okla., by Julian Ball Industries, Inc.

LABEL IN PART: (Bag) "Little Brownie Ole Fashion Sugar Cookies In-gred: * * * Baked and Packed for Little Brownie Bakers, Inc., Marietta, Okla., Houston, Texas," and (bag) "Little Brownie Marietta's Chocolate Flavored Creme Sandwich Squares * * * 60 Cookies * * * Baked and Packed for Little Brownie Bakers, Inc. Marietta, Okla., Houston, Texas."

RESULTS OF INVESTIGATION: Examination disclosed that the name and address of the distributor were inconspicuous, being nearly invisible due to being printed in white ink on a highly reflective yellow background color on a crimped paper fold-over label on the top of a cellophane bag.

LIBELED: 2-27-63, S. Dist. Tex.

CHARGE: 403(f)—when shipped, the information required to appear on the label under 403(e) (1), namely, the name and address of the distributor, was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, and devices in the labeling) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 3-26-63. Default—delivered to a charitable institution.

28802. Cookies and flour. (F.D.C. No. 48401. S. Nos. 45-286/7 V, 45-290/3 V, 45-295/6 V, 45-943 V.)

QUANTITY: 15 cases, each containing 12 2-lb. boxes of figbars, 17 cases, each containing 12 1½-lb. bags of gingersnaps, 9 cases, each containing 12 2-lb. boxes of creme cookies, 32 cases, each containing 12 1½-oz. boxes of marshmallow pies (chocolate-flavored coating), 12 cases, each containing 12 1½-oz. boxes of marshmallow pies (banana-flavored coating), 16 cases, each containing 12 1½-oz. boxes of marshmallow pies (cocoanut-flavored coating), 434 25-lb. bags and 50 50-lb. bags of plain flour, and 203 25-lb. bags of self-rising flour, at Stuttgart, Ark., in possession of Grand Prairie Wholesale Grocer Co., Inc.

SHIPPED: Between 8-18-62 and 10-13-62, from Birmingham, Ala., Louisville, Ky., and Salina, Kans.

LIBELED: 12-7-62, E. Dist. Ark.

CHARGE: 402(a) (3)—contained insects and insect larvae, webbing, and excreta; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: On 2-7-63, a default decree of condemnation was filed. On 3-14-63, upon the motion of an attorney for Grand Prairie Wholesale Grocery Co. of Stuttgart, Ark., a supplemental default decree of condemnation was filed which provided for sampling of the articles by the dealer and by the Government. After samples were taken, the articles were delivered to a charitable organization for use as stock feed.

28803. Venus sesame squares (wafers). (F.D.C. No. 48432. S. No. 4-351 V.)

QUANTITY: 24 cases, each containing 12 6-oz. pkgs., at Washington, D.C.

SHIPPED: 10-22-62, from Boston, Mass., by Venus Wheat Wafers, Inc.

LABEL IN PART: (Pkg.) "Venus Toasted Sesame Squares * * * Venus Wheat Wafers, Inc., Boston, Mass."

LIBELED: 12-17-62, Dist. Columbia.

CHARGE: 402(a)(4)—prepared and packed under insanitary conditions when shipped.

DISPOSITION: 2-6-63. Default—delivered to a public institution for use as animal food.

28804. Devil's food cake. (F.D.C. No. 48423. S. No. 5-481 V.)

QUANTITY: 235 cases, each containing 100 1-oz. pkgs., at Baltimore, Md.

SHIPPED: 12-4-62, from Sioux City, Iowa, by Johnson Biscuit Co.

LABEL IN PART: (Pkg.) "Austin's Devilsfood * * * Distributed by Austin Biscuit Company, Baltimore 3, Md. Division Fairmont Foods Company."

RESULTS OF INVESTIGATION: Examination showed the article to be a chocolate-colored cake wrapped in clear cellophane, on which the name and address of the distributor, and the quantity of contents and ingredients statements were printed in dark red-colored ink, and which were inconspicuous against the product in the background.

LIBELED: 12-18-62, Dist. Md.

CHARGE: 403(f)—when shipped, the information required to appear on the label under 403(e) (1) and (2) and 403(i) (2), namely, the name and address of the manufacturer, packer, or distributor, the quantity of contents statement, and the ingredients statement, was not prominently placed on the label with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 2-14-63. Default—destruction.

28805. Rolls. (F.D.C. No. 47367. S. Nos. 92-826/8 R, 42-161 T, 42-164 T, 42-166 T.)

INFORMATION FILED: 9-26-62, E. Dist. Pa., against Morabito Baking Co., Inc., Norristown, Pa.

ALLEGED VIOLATIONS: On 3-29-60, the defendant caused to be given to a firm engaged in the business of shipping rolls into interstate commerce, a guaranty to the effect that no article shipped by the corporation under the guaranty would be adulterated. On 8-14-61 and 8-15-61, the defendant caused quantities of adulterated rolls to be shipped to the holder of the guaranty.

CHARGE: 402(a)(3)—contained whole insects and insect fragments; and 402(a)(4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 4-5-63. \$500 fine.

CORNMEAL

28806. Cornmeal, flour, unshelled peanuts, dried lima beans, and rice. (F.D.C. No. 47879. S. Nos. 59-720/4 T.)

INFORMATION FILED: 11-28-62, S. Dist. Miss., against Herold & Miller, Inc., Natchez, Miss., and Charles W. Herold, Jr., treasurer and manager.

ALLEGED VIOLATIONS: Between 11-29-60 and 3-13-62, while a number of bags of cornmeal, flour, peanuts, dried lima beans, and rice were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building that was accessible to rodents and caused the articles to be exposed to contamination by rodents, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 4-30-63. Corporation—\$450 fine; individual—\$50 fine.

28807. Cornmeal, Metrecal wafers and egg noodles. (F.D.C. No. 48531. S. Nos. 67-898/900 T, 83-584/6 T.)

INFORMATION FILED: 4-18-63, E. Dist. Ark., against Theodore J. Hiegel, t/a Hiegel Wholesale Grocer Co., Conway, Ark.

ALLEGED VIOLATIONS: Between 2-5-62 and 8-7-62, then defendants caused quantities of the above-mentioned foods, while held for sale after shipment in interstate commerce, to be held in a building accessible to insects and to be exposed to contamination by insects, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—contained insects, insect cast skins, excreta, larvae, and webbing; and 402(a)(4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 5-3-63. \$350 fine.

FLOUR*

28808. Flour. (F.D.C. No. 48489. S. No. 19-758V.)

QUANTITY: 112 25-lb. bags, at Denton, Tex., in possession of Monroe-Pearson Co.

SHIPPED: 11-5-62, from Yukon, Okla.

LIBELED: 12-14-62, E. Dist. Tex.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 12-31-62. Consent—destruction.

28809. Flour. (F.D.C. No. 48493. S. Nos. 18-710/11 V.)

QUANTITY: 720 100-lb. bags, at Waco, Tex., in possession of Weston Biscuit Co.

SHIPPED: 11-2-62 and 11-27-62, from Quincy, Mich.

LIBELED: 12-26-62, W. Dist. Tex.

CHARGE: 402(a)(3)—contained rodent excreta pellets; and 402(a)(4)—held under insanitary conditions.

*See also Nos. 28802, 28806.

DISPOSITION: 2-26-63. Consent—claimed by Weston Biscuit Co. of Waco, Tex. Segregated; 6,600 lbs. destroyed.

28810. Flour. (F.D.C. No. 47848. S. Nos. 13-513 T, 14-320 T.)

INFORMATION FILED: 8-21-62, N. Dist. Ill., against Habel, Armbruster & Larsen Co., a corporation, Chicago, Ill., and Harry W. Larsen, treasurer.

ALLEGED VIOLATIONS: Between 11-1-61 and 12-6-61, while quantities of flour were being held for sale after shipment in interstate commerce, the defendants caused flour to be held in a building that was accessible to rodents and to be exposed to contamination by rodents, which acts resulted in the flour being adulterated.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 2-27-63. Corporation—\$1,000 fine, plus costs, \$900 of which fine was suspended; individual—\$25 fine.

28811. Flour, cornmeal, and dried Great Northern beans. (F.D.C. No. 48620. S. Nos. 45-337/40 V, 45-348/9 V, 45-351 V.)

QUANTITY: 79 50-lb. bags and 116 25-lb. bags of plain flour, 21 25-lb. bags of self-rising flour, 222 25-lb. bags of enriched flour; 33 25-lb. bags and 64 bales containing 10 5-lb. bags each of cornmeal; and 5 100-lb. bags of Great Northern beans, at Brinkley, Ark., in possession of Dial Wholesale Grocer Co.

SHIPPED: Between 9-17-62 and 11-30-62, from Yukon, Okla., Salina, Kans., St. Joseph, Mo., and Morrill, Nebr.

LIBELED: 1-30-63, E. Dist. Ark.

CHARGE: 402(a)(3)—while held for sale, the flour and the 25-lb. bags of cornmeal contained rodent urine, the 5-lb. bags of cornmeal contained rodent excreta; and 402(a)(4)—all the articles had been held under insanitary conditions.

DISPOSITION: 2-28-63. Consent—claimed by Lambert Dial, t/a Dial Wholesale Grocer Co., Brinkley, Ark., and denatured.

28812. Flour. (F.D.C. No. 46707. S. No. 79-791 R.)

INFORMATION FILED: 4-5-62, Dist. Md., against Pariser Bakery, a partnership, Baltimore, Md., and Beryl Zerivitz and Arnold Zerivitz, partners.

ALLEGED VIOLATIONS: Between 7-17-61 and 7-28-61, while flour was being held for sale after shipment in interstate commerce, the defendants caused such flour to be held in a building accessible to insects and to be exposed to contamination by insects by placing the flour in insect-contaminated equipment, which acts resulted in the flour being adulterated.

CHARGE: 402(a)(3)—contained insects and insect parts; and 402(a)(4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 3-1-63. Each defendant placed on probation for 18 months.

28813. Flour. (F.D.C. No. 48705. S. No. 48-292 V.)

QUANTITY: 21 100-lb. bags, at Oakland, Calif.

SHIPPED: 12-22-62, from Twin Falls, Idaho.

RESULTS OF INVESTIGATION: Examination showed that the bags had been coded with a red stencil ink.

LIBELED: 2-11-63, N. Dist. Calif.

CHARGE: 402(c)—while held for sale, the article contained a color additive, namely, a red stencil ink containing noncertified colors, which was unsafe within the meaning of 706(a) since its use or intended use was not in accordance with a regulation or exemption in effect pursuant with 706(b).

DISPOSITION: 3-7-63. Default—destruction.

28814. **Flour.** (F.D.C. No. 48811. S. Nos. 49-800 V, 50-381 V, 50-601/5 V.)

QUANTITY: 760 100-lb. bags, at San Francisco, Calif., in possession of A. M. Devincenzi Co.

SHIPPED: Between 10-5-62 and 2-4-63, from Portland and Pendleton, Oreg., Seattle, Wash., and Billings, Mont.

LIBELED: 3-14-63, N. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-8-63. Consent—claimed by Bruno Albert Malucchi, t/a A. M. Devincenzi Co., San Francisco, Calif. Segregated and reconditioned; 289 bags denatured for use as animal feed.

28815. **Self-rising flour.** (F.D.C. No. 48141. S. Nos. 55-009 T, 55-019 T.)

INFORMATION FILED: 2-7-63, M. Dist. N.C., against All Star Mills, Inc., Albemarle, N.C.

SHIPPED: Between 1-2-62 and 1-9-62, from Albemarle, N.C., to Lancaster, S.C.

LABEL IN PART: (Bags) "White Fluff Self-Rising Flour 10 Lbs. Net Weight Mfd. By All Star Mills, Inc. Albemarle, N.C."

CHARGE: 402(a)(3)—contained insect parts; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 4-15-63. \$500 fine.

28816. **Flour.** (F.D.C. No. 48863. S. No. 55-737 V.)

QUANTITY: 269 120-lb. bags, at Topeka, Kans.

SHIPPED: 3-22-63, from Kansas City, Mo.

LIBELED: 4-25-63, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent urine while held for sale.

DISPOSITION: 6-6-63. Default—destruction.

28817. **Enriched flour.** (F.D.C. No. 48431. S. No. 18-190 V.)

QUANTITY: 172 bales, each containing 10 5-lb. bags, at Houston, Tex.

SHIPPED: 11-7-62, from Denver, Colo., by Denver Flour Mills Co.

LABEL IN PART: (Bag) "A B C * * * Extra Fancy Family Enriched Flour * * * Packed for Henke & Pillot, Division of The Kroger Co., Houston, Beaumont, and Galveston * * * Milled by Denver Flour Mills Co., Denver, Colo."

RESULTS OF INVESTIGATION: Examination revealed that the enrichment statement was printed in very small type, making it inconspicuous and in part illegible.

LIBELED: 12-19-62, S. Dist. Tex.

CHARGE: 403(f)—when shipped, the information required by 403(j), namely, the enrichment statement, was not prominently placed on the label with such conspicuousness (as compared with other words and statements on the label) as to render such information likely to be read by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 1-21-63. Default—delivered to charitable institutions.

28818. Buckwheat flour and pancake mix. (F.D.C. No. 48420. S. Nos. 42-031 V, 42-034 V.)

QUANTITY: 10 unlabeled 100-lb. bags of buckwheat flour, and 39 25-lb. bags of pancake mix, at Bordentown, N.J.

SHIPPED: 9-28-62, from Churchville, N.Y., by Cooperative Grange League Federation Exchange, Inc.

LABEL IN PART: (Bag) "G.L.F. Patrons'—Self-Rising Pancake Mix * * * 25 Lbs. Net Packed By Cooperative Grange League Federation Exchange * * * Ithaca, New York."

LIBELED: On or about 1-11-63, Dist. N.J.

CHARGE: 402(a) (3)—when shipped, the articles contained insect parts, insect fragments, and rodent hairs; 402(a) (4)—the articles were prepared and packed under insanitary conditions; 403(e)—the buckwheat flour failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) a statement of the quantity of contents; and 403(i) (1)—the buckwheat flour failed to bear a label containing the common or usual name of the food.

DISPOSITION: 1-25-63. Default—destruction.

MACARONI AND NOODLE PRODUCTS

28819. Lasagna and twist macaroni. (F.D.C. No. 48738. S. Nos. 51-235/6 V.)

QUANTITY: 33 cases, 12 12-oz. pkgs. each, of lasagna and 48 cases, 12 12-oz. pkgs. each, of twist macaroni, at Great Falls, Mont.

SHIPPED: 2-19-63 and 2-28-63, from Spokane, Wash., by U.S. Macaroni Manufacturing Co., Inc.

LABELS IN PART: (Pkg.) "Taystee Brand Lasagna," and "Taystee Brand Twist."

LIBELED: 4-5-63, Dist. Mont.

CHARGE: 403(e) (1)—when shipped, the article (both lots) failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor.

DISPOSITION: 5-13-63. Default—delivered to a charitable institution.

28820. Egg noodles. (F.D.C. No. 46692. S. Nos. 81-741/2 R.)

INFORMATION FIELD: 2-7-62, S. Dist. Fla., against Delmonico Foods, Inc., of Florida, Tampa, Fla., and Peter S. Viviano, president and manager.

SHIPPED: 5-12-61 and 5-22-61, from Florida to Alabama.

LABEL IN PART: (Ctns.) "Afco Med. Egg Noodles 10 Pounds Net Weight American Foods, Inc. Mobile, Alabama"; and "Delmonico Medium Egg Noodles 10 Pounds Net Weight When Packed Delmonico Foods Inc. Of Florida Tampa, Florida."

CHARGE: 402(b)(1)—when shipped, a valuable constituent, egg solids, had been in part omitted from the article; and 403(g)(1)—the article failed to conform to the definition and standard of identity for egg noodles since the total solids of the article contained less than 5.5 percent by weight of the solids of egg or egg yolk.

PLEA: Not guilty.

DISPOSITION: On 3-26-62, the defendants filed a motion to dismiss the information, and on 9-6-62, the court denied such motion. Thereafter, trial of the case was had before the court and was concluded with the jury's verdict of guilty against the defendants with respect to 4 of the 6 counts of the information. On 2-1-63, the court fined each defendant \$2,000.

28821. Egg noodles. (F.D.C. No. 47894. S. Nos. 16-033 T, 24-233 T.)

INFORMATION FILED: 11-19-62, W. Dist. Ky., against Delmonico Foods, Inc., Louisville, Ky., and Peter J. Viviano, president.

SHIPPED: 11-21-61 and 12-21-61, from Louisville, Ky., to Cincinnati and Cleveland, Ohio.

LABEL IN PART: (Bags) "DELMONICO Vitamin Enriched 12 Ounces Net PURE EGG NOODLES MADE BY DELMONICO FOODS, INC., LOUISVILLE, KENTUCKY Made from Fancy Flour and 5½% Egg Yolk Solids" and "NET WEIGHT 1 LB. FISHER'S ENRICHED PURE EGG NOODLES 5½% Egg Solids DISTRIBUTED BY THE FISHER BROS. CO."

CHARGE: 402(b)(1)—when shipped, a valuable constituent, namely, egg solids, had been in part omitted from the article; and 403(a)—the statements "Made from Fancy Flour and 5½% Egg Yolk Solids" and "5½% Egg Solids" which appeared on the labeling were false and misleading in that they represented and suggested that the article contained 5½ percent egg or egg yolk solids whereas the food contained less than 5½ percent egg or egg yolk solids; and 403(g)(1)—the article purported to be and was represented as egg noodles, a food for which a definition and standard of identity had been prescribed by regulations, and it failed to conform to such definition and standard since the total solids of the article contained less than 5.5 percent by weight of the solids of egg or egg yolk.

PLEA: Nolo contendere.

DISPOSITION: 3-25-63. \$1,000 fine.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

28822. Wheat. (Inj. No. 331.)

COMPLAINT FOR INJUNCTION FILED: 2-13-58, Dist. N. Dak., against Equity Elevator & Trading Co. of Hickson, a corporation, Hickson, N. Dak., and Oscar Gilbertson, plant manager.

CHARGE: The complaint alleged that the defendants were engaged in the operation of a plant at Hickson, N. Dak., for the storage and distribution of a food, wheat for human consumption, and were shipping into interstate commerce at Hickson, N. Dak., wheat which was adulterated within the meaning of 402(a)(3) and 402(a)(4); that the food consisted in part of filthy substances by reason of the contamination of the food with rodent, insect, and bird filth, and of a decomposed substance by reason of the presence of moldy wheat; and the food was being held at the defendant's plant at Hickson, N. Dak., under insanitary conditions whereby it may have become contaminated with filth.

The complaint alleged also that the defendants' plant at Hickson, N. Dak., consisted of a main elevator with attached annex, a silo adjacent to the main elevator, and a quonset-type building east of the main elevator; that the insanitary conditions at the defendants' plant at Hickson, N. Dak., where the food was held, resulted from and consisted of the presence of rodent tracks throughout the main elevator and on the surface of the wheat stored therein; the presence of dust from 2 to 6 inches deep in the gallery and headhouse levels of the main elevator; openings of about 4 inches between the top of the walls of the front dump pit of the main elevator and the floor immediately above through which rodents could enter the elevator; the presence of dead mice and a dead cat under the elevator; rodent tracks, rodent tunneling, and a dead cat in the attached annex; holes in the spouts leading from the annex bin to the auger conveyor which carried grain to the main elevator; rodent tracks, rodent pellets, rodent urine, bird excreta pellets, a dead bird, live mice, insects and moldy wheat on and in the wheat stored in the quonset building; live birds inside the quonset building; rodent pellets and bird droppings on the steel cross beams of the quonset building; and rodent holes which had been burrowed into the wheat in the quonset building.

DISPOSITION: On 2-13-58, the court issued a temporary restraining order enjoining the defendants from shipping into interstate commerce, wheat for human consumption and any similar article of food held at the defendants' plant at Hickson, N. Dak., unless and until: (a) the plant buildings consisting of the main elevator with attached annex, silo, and the adjacent quonset building were thoroughly cleaned, renovated, and rendered suitable for the storage of wheat for human consumption and any similar article of food, namely, unless and until all rodent, bird, cat, and insect filth and accumulations of dust were removed from the buildings and the equipment used in storing such food was cleaned; all rodent, bird, cat and insect infestation in the buildings was eliminated; the means of ingress and egress to the buildings by rodents, birds, cats and insects were closed; and any similar insanitary conditions which might result in the contamination of such food while held in the plant buildings were eliminated; (b) all of the wheat for human consumption which was on hand in the plant buildings at the time the buildings were cleaned, renovated, and rendered suitable for the storage of food for human consumption was destroyed, denatured for use as animal food, or cleaned and otherwise reconditioned under the supervision of a duly authorized representative of the Food and Drug Administration, Department of Health, Education, and Welfare, and thus brought into compliance with the provisions of the Act, all costs of such supervision to be borne by the defendants.

On 3-17-58, pursuant to written stipulation of the parties, which included provisions for the dismissal with prejudice, upon the merits and without statutory costs to any of the parties when the defendants' premises passed an official inspection, the court ordered that the defendants' time to answer, plead or otherwise move with respect to the complaint was extended to 5-16-58, and that the temporary restraining order was also continued to that date.

A further extension until 6-2-58 was granted on 5-16-58. During this period, wheat on hand at the time the temporary restraining order was granted was reconditioned, and an inspection showed that rodent evidence was not to be seen which would contaminate the wheat then in storage, and that sanitary conditions appeared to be satisfactory.

On 7-24-58, upon consideration of all of the written stipulations of the parties and also the oral argument of counsel for the parties with relation to

the assessment of costs, the court vacated the temporary restraining order and dismissed the action with prejudice and upon the merits and without costs to any of the parties.

28823. Wheat. (F.D.C. No. 45630. S. No. 65-967 R.)

QUANTITY: 120,000 lbs. at Alton, Ill.

SHIPPED: 3-29-61, from Minneapolis, Minn., by Russell-Miller Milling Co.

LIBELED: 4-14-61, S. Dist. Ill.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 5-1-61. Consent—claimed by Farmers Elevator Co., McClusky, N. Dak., and reconditioned.

28824. Wheat. (F.D.C. No. 47494. S. No. 74-805 T.)

QUANTITY: 50 tons, at San Francisco, Calif., in possession of Port of San Francisco Grain Terminals, Inc.

SHIPPED: Between 5-1-61 and 9-1-61, from Julesburg, Colo., Selden, Kans., and Corcoran, Calif.

LIBELED: 5-15-62, N. Dist. Calif.

CHARGE: 402(a)(3)—contained bird excreta, bird feathers, and sour, moldy wheat; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 6-26-62. Consent—claimed by Kerr Grain Corp., Portland, Oreg., and reconditioned.

28825. Wheat. (F.D.C. No. 47808. S. No. 72-225 T.)

QUANTITY: 120,000 lbs. at Cincinnati, Ohio.

SHIPPED: 7-9-62, from Connersville, Ind., by Indiana Grain Cooperative, Inc.

LIBELED: 7-24-62, S. Dist. Ohio.

CHARGE: 402(a)(2)(B)—when shipped, the article contained a pesticide chemical, namely, a mercurial compound, which was unsafe within the meaning of 408(a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat had been prescribed by regulations.

DISPOSITION: 6-7-63. Consent—claimed by Fayette County Farm Bureau Cooperative Association, Inc., and destroyed.

28826. Wheat. (F.D.C. No. 47809. S. No. 72-226 T.)

QUANTITY: 120,800 lbs. at Cincinnati, Ohio.

SHIPPED: 7-9-62, from Connersville, Ind., by Indiana Grain Cooperative, Inc.

LIBELED: 7-24-62, S. Dist. Ohio.

CHARGE: 402(a)(2)(B)—when shipped, the article contained a pesticide chemical, namely, a mercurial compound, which was unsafe under 408(a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat had been prescribed by regulations.

DISPOSITION: 8-16-62; decree amended 6-7-63. Consent—claimed by Fayette County Farm Bureau Cooperative Association, Inc., and destroyed.

28827. Wheat. (F.D.C. No. 48689. S. No. 35-903 V.)

QUANTITY: 102,600 lbs. at Superior, Wis.

SHIPPED: 1-17-63, from Lansford, N. Dak., by Peavey Occident.

LIBELED: 1-29-63, W. Dist. Wis.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 2-18-63. Consent—claimed by Peavey Co., and denatured.

28828. Wheat. (F.D.C. No. 48708. S. No. 34-827 V.)

QUANTITY: 108,000 lbs., at Minneapolis, Minn.

SHIPPED: 2-11-63, from Hankinson, N. Dak., by Cargill, Inc.

LIBELED: 2-20-63, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 2-27-63. Consent—claimed by Cargill, Inc., and denatured.

28829. Wheat. (F.D.C. No. 48713. S. No. 33-517 V.)

QUANTITY: 127,800 lbs., at Minneapolis, Minn.

SHIPPED: 2-7-63, from Kindred, N. Dak., by Kindred Farmers Elevator Co.

LIBELED: 2-25-63, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 2-27-63. Consent—claimed by Kindred Farmers Elevator Co., and denatured.

28830. Rice. (F.D.C. No. 48463. S. No. 49-483 V.)

QUANTITY: 91 100-lb. bags, at San Francisco, Calif., in possession of C. E. Grosjean Rice Milling Co.

SHIPPED: 9-13-62, from Houston, Tex.

LIBELED: 11-27-62, N. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-7-63. Consent—claimed by C. E. Grosjean Rice Milling Co. Segregated; 6,050 lbs. denatured.

28831. Rice. (F.D.C. No. 48149. S. Nos. 21-291 T. 39-600 T.)

INFORMATION FILED: 11-20-62, S. Dist. Calif., against Cal-Oro Rice Growers, Inc., Dos Palos, Calif., and Edward R. Lewis, secretary-treasurer and general manager.

SHIPPED: 3-25-62 and 3-28-62, from California to Colorado and Puerto Rico.

LABEL IN PART: (Bag) "NEW CROP, EXTRA FANCY, BOTAN, RICE, JAPAN FOOD CORPORATION, 25 LBS. NET WEIGHT"; "EXTRA FANCY, U.1 S., NOT OVER 4% BROKEN, ARROZ DE CALIFORNIA, PUEBLO, ARROZ PERLA, EMPACADO PARA, PUEBLO SUPERMARKETS, INC., 3 LIBRAS NETAS."

CHARGE: 402(a)(3)—contained insect parts, rodent hairs and rodent excreta; and 402(a)(4)—prepared, packed, and held under insanitary conditions.

PLEA: Nolo contendere by the corporation to both counts of the information, and by Lewis to count 1.

DISPOSITION: 2-25-63. Corporation fined \$1,000 and individual fined \$100; each defendant also placed on probation for 1 year.

28832. Rice, grits, and salt. (F.D.C. No. 47878. S. Nos. 2-265 R, 2-676 R, 54-692/3 T.)

INFORMATION FILED: 11-28-62, E. Dist. S.C., against Charles F. Black, Bamberg, S.C.

ALLEGED VIOLATIONS: Between 3-16-59 and 5-8-62, while quantities of rice, grits, and salt were being held for sale after shipment in interstate commerce, the defendant caused the articles to be held in a building that was accessible to rodents and insects and to be exposed to contamination by rodents and insects, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—contained rodent urine, hairs, and excreta, and insects and insect webbing and excreta.

PLEA: Guilty.

DISPOSITION: 4-8-63. Sentence of 6 months' imprisonment and \$500 fine was suspended on payment of \$400 fine.

28833. Puffed wheat and puffed rice. (F.D.C. No. 47114. S. Nos. 34-000 R, 80-730 R, 81-231 R, 83-917 R, 84-141 R, 96-610 R.)

INFORMATION FILED: 6-11-62, M. Dist. Pa., against Quaker Oats Co., a corporation, Shiremanstown, Pa.

SHIPPED: Between 6-7-61 and 6-28-61, from Pennsylvania to Massachusetts, Rhode Island, New York, and New Jersey.

LABEL IN PART: (Ctns.) "QUAKER PUFFED WHEAT Weight 6 oz. net Manufactured by The Quaker Oats Company Address: Chicago, U.S.A."; "QUAKER PUFFED RICE Weight 6¾ oz. net Manufactured by The Quaker Oats Company Address: Chicago, U.S.A."

RESULTS OF INVESTIGATION: Examination showed that the articles were short weight.

CHARGE: 403(e)(2)—the articles failed to bear labels containing an accurate statement of the quantity of contents.

PLEA: Nolo contendere.

DISPOSITION: 1-11-63. \$6,000 fine.

CHOCOLATE PRODUCT AND CONFECTIONERY

CHOCOLATE PRODUCT

28834. Cocoa beans. (F.D.C. No. 48374. S. Nos. 40-286/91 V.)

QUANTITY: 32,000 141-lb. bags at Staten Island, N.Y.

SHIPPED: 7-20-61, from Nigeria.

LIBELED: 11-19-62, E. Dist. N.Y.

CHARGE: 402(a)(3)—contained insects, insect larvae, and moldy beans, while held for sale.

DISPOSITION: 1-2-63. Consent—claimed by A. C. Israel Commodity Co., Inc. Reconditioned; 70 141-lb. bags destroyed.

CONFECTIONERY

28835. Candy. (F.D.C. No. 48590. S. No. 41-150 V.)

QUANTITY: 51 ctns., containing 24 pkgs. each, at Bronx, N.Y.

SHIPPED: Prior to 12-17-62, from St. Louis, Mo., and Duluth and Minneapolis, Minn. These were return shipments.

LIBELED: 1-15-63, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained moldy candy when shipped.

DISPOSITION: 2-18-63. Default—destruction.

28836. Candy. (F.D.C. No. 48223. S. Nos. 94-430/1 T.)

QUANTITY: 15 20-lb. ctns. of red twist candy, 20 cases, 24 7-oz. bags each, of licorice twist and 13 cases, 26 8-oz. bags each, of burnt peanuts, at Minneapolis, Minn., in possession of Leo Singer Candy & Tobacco Co.

SHIPPED: Between 7-27-62 and 9-7-62, from Chicago, Ill.

LABEL IN PART: (Ctn.) "Red Twist Candy."; (bag) "Ver-e-best Candies * * * Licorice Twist * * * Ingredients * * * Natural and Artificial Flavors and U.S. Certified Colors. Singers Ver-e-best Candies Minneapolis, Minn."; "Burnt Peanuts * * * Ingredients * * * Certified Color, Imitation Flavor Singers Ver-e-best Candies, Minneapolis, Minn."

RESULTS OF INVESTIGATION: Examination revealed that the candy was shipped in bulk lots and repacked by the dealer into retail-size bags of clear cellophane. The quantity of contents and the ingredient statements on the bags were printed in ink of a color similar to the color of the contents of the bags causing the statements to be inconspicuous.

LIBELED: 10-11-62, Dist. Minn.

CHARGE: 403(f)—while held for sale, the information required under 403(e) (2), 403(i) (2), and 403(k), namely, the quantity of contents statement, the statement of ingredients, and the declaration of artificial flavoring and artificial coloring, were not prominently placed on the labels with such conspicuousness (as compared with other words and statements on the labels) as to render such information likely to be read by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 1-2-63. Consent—claimed by Singer Candy Co., Minneapolis, Minn., and relabeled.

DAIRY PRODUCTS

BUTTER

28837. Butter. (F.D.C. No. 48040. S. No. 79-084 T.)

QUANTITY: 28 boxes at Minneapolis, Minn.

SHIPPED: 8-30-62, from Edgeley, N. Dak., by Edgeley Cooperative Creamery Co.

LABEL IN PART: (Box) "Creamery Butter * * * 4011 64 Lbs. Net. * * * 39 Unsalted."

LIBELED: 9-27-62, Dist. Minn.

CHARGE: 402(a) (3)—contained fly and other insect fragments and rodent hair fragments; and 402(a) (4)—packed and prepared under insanitary conditions.

DISPOSITION: 3-5-63. Default—destruction.

28838. Butter. (F.D.C. No. 48029. S. No. 94-441 T.)

QUANTITY: 148 ctns. at Minneapolis, Minn.

SHIPPED: 8-23-62, from Edgeley, N. Dak., by Edgeley Cooperative Creamery Co.

LABEL IN PART: (Ctn.) "Butter Keep Cool 4011 64 Lbs. Net."

LIBELED: 9-14-62, Dist. Minn.

CHARGE: 402(a) (3)—contained whole flies, and fly and other insect parts; and 402(a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 3-5-63. Default—destruction.

28839. Butter. (F.D.C. No. 47647. S. No. 41-237 V.)

QUANTITY: 9 60-lb. ctns., at New York, N.Y.

SHIPPED: 2-21-63, from Worthington, Iowa, by Consolidated Shippers.

LABEL IN PART: "Creamery Butter."

LIBELED: 3-8-63, S. Dist. N.Y.

CHARGE: 402(b)(2)—when shipped, a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: 4-3-63. Consent—claimed by Frederick F. Lowenfels & Son, New York, N.Y., and reconditioned.

28840. Butter. (F.D.C. No. 47639. S. No. 74-551 T.)

QUANTITY: 26 50-lb. ctns. at Elmhurst, N.Y.

SHIPPED: 8-21-62, from Hagerstown, Md., by Potomac Creamery Co., Inc.

LIBELED: 8-29-62, E. Dist. N.Y.

CHARGE: 402(b)(2)—when shipped, a product containing less than 80 percent by weight of milk fat has been substituted for butter.

DISPOSITION: 5-9-63. Potomac Creamery Co., Inc., claimant, having consented to a decree for the purpose of settlement without admitting any issues of law and fact and on condition that such consent was limited to the libel action, judgment of condemnation was entered and the article was ordered released under bond for reworking.

CHEESE

28841. Parmesan cheese. (F.D.C. No. 48744. S. No. 50-811 V.)

QUANTITY: 9 cases, each containing 144 2½-oz. pkgs., at San Francisco, Calif., in possession of Monterey Cheese Co.

SHIPPED: 1-10-63 and 2-14-63, from Chicago, Ill.

RESULTS OF INVESTIGATION: The dealer's name and address and quantity of contents statement were inconspicuous due to being printed in very small type in ink of a color lacking sufficient contrast with the background color of the label.

LIBELED: 4-11-63, N. Dist. Calif.; amended libel 4-22-63.

CHARGE: 403(f)—while held for sale, the information required to appear on the label by 403(e)(1) and (2), namely, the name and address of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents, was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 5-15-63. Default—delivered to a charitable organization.

28842. Swiss cheese. (F.D.C. No. 48386. S. No. 39-384 V.)

QUANTITY: 29 12-lb. blocks, 23 12 lb. boxes of Saran-packaged slices, and 7 12-lb. boxes of polyethylene-packaged slices, at Bronx, N.Y., in possession of Crystal Products, Inc.

SHIPPED: 9-19-62, from New London, Wis.

LABEL IN PART: (Pkg.) "Domestic Swiss * * * Daitch Quality Cheese Dist. by Daitch Crystal Dairies Inc., N.Y., N.Y."; and (pkg.) "Daitch Sliced-Natural

Swiss Cheese * * * Distributed by Daitch Crystal Dairies, Inc., New York, N.Y."

RESULTS OF INVESTIGATION: Examination showed that artificial holes or eyes had been cut into the cheese simulating the holes or eyes which swiss cheese normally develops during the curing process. Investigation disclosed that the dealer was cutting the holes or eyes before slicing and packaging the cheese.

LIBELED: 11-28-62, S. Dist. N.Y.

CHARGE: 402(b)(3)—while held for sale, artificial holes or eyes had been cut into the cheese, thereby concealing the inferiority of the product.

DISPOSITION: 3-11-63. Consent—claimed by Crystal Products, Inc., New York, N.Y., and destroyed.

EGGS

28843. Frozen eggs. (F.D.C. No. 48244. S. No. 87-285 T.)

QUANTITY: 120 30-lb. cans, at Chicago, Ill.

SHIPPED: Between 7-3-62 and 9-7-62, from Indiana, Iowa, Minnesota, and Wisconsin.

RESULTS OF INVESTIGATION: The article had been prepared and packed at Chicago, Ill., by Nichols Badger Brand Products, Inc., from shell eggs which had been shipped by various egg producers as described above.

LIBELED: 10-18-62, N. Dist. Ill.

CHARGE: 402(a)(3)—contained decomposed eggs while held for sale.

DISPOSITION: 11-5-62. Consent—claimed by Nichols Badger Brand Products, Inc. Segregated; 26 cans denatured.

28844. Incubator reject eggs. (F.D.C. No. 46701. S. No. 69-782 R.)

INFORMATION FILED: 1-29-62, Dist. Md., against Alan Rutstein, Englewood, N.J., and Frank A. Contino, Newark, N.J.

SHIPPED: 4-21-61, from Maryland to Delaware.

CHARGE: 402(a)(3)—contained decomposed eggs and eggs containing embryos when shipped.

PLEA: Guilty.

DISPOSITION: Pursuant to the defendants' requests, the case was transferred to the Dist. N.J. for the entry of pleas of guilty. Such pleas were entered on 9-14-62, and on 1-18-63, the court sentenced the defendants as follows: Rutstein—1 year in jail, which sentence was reduced on 2-11-63 to 9 months; Contino—\$250 fine and probation for 5 years.

28845. Frozen eggs. (F.D.C. No. 48602. S. Nos. 41-243/44 V, 41-346 V.)

QUANTITY: 629 30-lb. cans, at Jersey City, N.J.

SHIPPED: Between 8-23-62 and 12-13-62, from Philadelphia, Pa., by William H. Oldach, Inc.

LABEL IN PART: (Can) "Whole (eggs) Packed for and distributed by Wm. H. Oldach, Phila. Pa."

LIBELED: 1-22-63, Dist. N.J.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 4-9-63. Consent—claimed by Wm. H. Oldach, Inc. Segregated; 403 cans denatured.

FISH AND SHELLFISH

28846. Frozen perch fillets. (F.D.C. No. 48996. S. Nos. 56-066/7 V, 56-070/1 V.)

QUANTITY: 190 10-lb. ctns., and 58 50-lb. ctns., each containing 10 5-lb. boxes (each fillet individually wrapped), at Gloucester, Mass.

SHIPPED: The article was in part from fish caught by the fishing vessel "Lady of Good Voyage" in the waters of the Atlantic Ocean outside the territorial limits of the State of Massachusetts and unloaded 5-6-63, at Gloucester, Mass.

LIBELED: 6-5-63, Dist. Mass.

CHARGE: 402(a) (3)—contained parasitic copepods when shipped.

DISPOSITION: 6-26-63. Consent—claimed by Hygeia Brand Fillet Co., Inc., Gloucester, Mass., and reconditioned.

28847. Frozen breaded perch. (F.D.C. No. 48415. S. No. 6-473 V.)

QUANTITY: 43 cases, each containing 12 4½-lb. ctns., at Lowell, Mass.

SHIPPED: 11-1-62, from Indianapolis, Ind. This was a return shipment.

LABEL IN PART: (Ctn.) "Quick Frozen Breaded Fish Portions 24-3 Oz. Portions Perch * * * Packed In USA For Acadia Fisheries Ltd. Mulgrave-Nova Scotia."

RESULTS OF INVESTIGATION: Examination showed the article to be pollock fish.

LIBELED: 12-13-62, Dist. Mass.

CHARGE: 403(a)—when shipped, the name "Perch" was false and misleading as applied to a product consisting of pollock fish; and 403(b)—the article was pollock fish which was offered for sale under the name of another food, namely, perch.

DISPOSITION: 1-10-63. Consent—claimed by Commodore Foods, Inc., Lowell, Mass., and relabeled.

28848. Frozen haddock fillets. (F.D.C. No. 48634. S. Nos. 6-960 V, 7-681 V.)

QUANTITY: 6 ctns., each containing 10 5-lb. pkgs., and 19 ctns., each containing 5 10-lb. pkgs., at Boston, Mass.

SHIPPED: The fillets were prepared and packed at Boston, Mass., from fish caught by fishing vessels "Comet" and "Michigan," in the waters of the Atlantic Ocean outside the territorial limits of the State of Massachusetts, which landed the fish at Boston on or about 1-8-63 and 1-9-63.

LIBELED: 2-8-63, Dist. Mass.

CHARGE: 402(a) (3)—contained decomposed fish fillets when shipped.

DISPOSITION: 3-25-63. Default—delivered to a public institution for use as animal feed.

28849. Frozen pollock. (F.D.C. No. 48454. S. Nos. 15-253/4 V.)

QUANTITY: 1,700 lbs. contained in cardboard cases, at Pendleton, Ind.

SHIPPED: 10-9-62 and 10-15-62, from Chicago, Ill., by Pick-Shapiro Fisheries, Inc.

LABEL IN PART: (Cases) "Haddock, 4 Oz. Raw Portions."

LIBELED: On or about 12-12-62, S. Dist. Ind.; amended libel on or about 1-8-63.

CHARGE: 402(b) (2)—when shipped, a substance, namely, pollock fish, had been substituted for haddock fish which the article purported and was represented to be; 403(a)—the name of the article "Haddock" was false and misleading

as applied to a product consisting of pollock fish; and 403(b)—the article was pollock fish which was offered for sale under the name of another food, namely, haddock.

DISPOSITION: 2-7-63. Default—destruction.

28850. Frozen pollock portions and frozen pollock sticks (2 seizure actions).
(F.D.C. No. 48474. S. Nos. 24-111/13 V.)

QUANTITY: 650 lbs. of frozen 4-oz. pollock portions at Michigan City, Ind.; 130 lbs. of frozen 4-oz. pollock portions, and 525 lbs. of frozen pollock sticks, at Fort Wayne, Ind.

SHIPPED: 10-9-62 and 10-16-62, from Chicago, Ill., by Pick-Shapiro Fisheries, Inc.

LABEL IN PART: (Cases of pollock portions) "Haddock 4 oz. Raw Portions"; and "Cod 4 oz. portions 9/5's"; and (cases of pollock sticks) "Cod Sticks 16 to Lb. 9/5's Breaded Lot."

LIBELED: 12-4-62, 12-7-62, N. Dist. Ind.; amended libel 1-9-63.

CHARGE: 403(a)—when shipped, the names of the articles, namely, "Haddock" and "Cod" were false and misleading as applied to a product consisting of pollock; 403(b)—the articles were pollock fish which were offered for sale under the names of other foods, namely, haddock and cod; and, pursuant to the amended libel, 402(b) (2), (650-lb. lot only) pollock fish had been substituted for haddock fish which the article purported and was represented to be.

DISPOSITION: 2-7-63; 1-30-63. Default—destruction.

28851. Frozen breaded fish sticks. (F.D.C. No. 48497. S. No. 24-830 V.)

QUANTITY: 665 lbs. in cases, at Logansport, Ind.

SHIPPED: 10-16-62, from Chicago, Ill., by Pick-Shapiro Fisheries, Inc.

LABEL IN PART: (Case) "COD STICKS 16 TO LB 9/5's BREADED."

RESULTS OF INVESTIGATION: Examination showed that the article consisted of pollock fish.

LIBELED: 1-8-63, N. Dist. Ind.

CHARGE: 402(b) (2)—when shipped, pollock fish had been substituted in whole or in part for codfish; 403(a)—the name of the article, namely, "COD" was false and misleading as applied to a product consisting of pollock fish; and 403(b)—the article was pollock fish which was offered for sale under the name of another food, namely, codfish.

DISPOSITION: 3-11-63. Default—destruction.

28852. Frozen breaded shrimp, breaded soft shell crabs, breaded frog legs, breaded scallops, and fried chicken. (Inj. No. 393.)

COMPLAINT FOR INJUNCTION FILED: 2-8-61, S. Dist. N.Y., against Redi Food Co., Inc., Bronx, N.Y., Bernard Nichols, president, and Harold Nichols, secretary, treasurer and manager of the corporation.

CHARGE: The complaint alleged that the defendants were engaged in preparing, packing, holding and distributing various types of food products including frozen breaded shrimp, breaded soft shell crabs, breaded frog legs, breaded scallops, and fried chicken, and in causing to be introduced and delivered for introduction into interstate commerce such foods which were adulterated under 402(a) (3) because of the presence in the foods of rodent hairs, rodent filth, insect parts, insect filth, cigarette ashes, pieces of plastic materials and

other foreign substances and coliforms and other bacterial organisms, and under 402(a) (4) by reason of being prepared, packed, and held under insanitary conditions.

It was alleged further that the adulteration of the foods resulted from inadequate manufacturing facilities including unscreened doors and windows, holes in walls, lack of doors to areas not used for manufacturing, all of which permitted the entry of rodents and insects to the manufacturing areas; improperly designed equipment which is difficult or impossible to clean; inadequate toilet facilities; inadequate employee sanitary training; careless practices on the part of officers and employees of the corporate defendant in the preparation, packing, holding and handling of the various foods; unclean walls, floors and other surfaces throughout the plant, which walls, floors and surfaces contain encrusted and decomposing food debris; inadequate cleaning practices and cleaning agents; lack of care of cleaning brushes and other cleaning agents; inadequate facilities for the washing of shrimp and other foods; lack of separate cleaning facilities for shrimp and poultry which permits cross-contamination; the reuse of spoiled breeding materials which have been exposed to contamination and the use of breeding material in which foreign substances are contained; inadequate storage areas which prevent proper cleaning of supply storage sections; the presence of insects and rodents including flies, ants, mice, and rats in the plant, which vermin are also to be found on or near the equipment used and the food being prepared and packed; lack of qualified supervisory personnel; generally poor sanitary housekeeping and lack of other precautions essential to the preparation, packing, and holding of food under sanitary conditions.

The complaint alleged further that the defendants were well aware that their activities were in violation of the Act. At the conclusion of inspections of the defendants' plant on 8-11-59, 7-25-60, and 1-23-61, the defendants were notified of the insanitary conditions then existing at the plant, and, at a hearing held on 2-16-60, the defendants were notified of the insanitary conditions then existing at the plant, and that despite such warnings the defendants failed to correct the insanitary conditions and continued to introduce into interstate commerce foods which were adulterated as specified above.

DISPOSITION: 2-8-61. The defendants were enjoined pending a hearing on an order to show cause from causing to be introduced and delivered into interstate commerce foods which were adulterated as described above. On 2-15-61, the defendants having consented, the court entered a decree of permanent injunction enjoining the defendants against causing the introduction and delivery for introduction into interstate commerce of foods which are adulterated as alleged in the complaint. The defendants were also enjoined against causing the introduction and delivery for introduction into interstate commerce of foods which have been prepared, packed, and held in the defendants' plant unless and until:

(a) the plant is thoroughly cleaned and rendered suitable for use in connection with the preparation, packing, and holding of foods for human consumption; all rodent and insect filth is removed from said plant; the equipment used in the preparation, packing, and storing of said foods is cleaned, replaced, or made suitable for use in the preparation, packing, and storage of foods for human consumption; all rodent and insect filth in and about said plant is eliminated; the means of ingress and egress by rodents and insects are closed; and any similar insanitary conditions which may result in the contamination

of foods for human consumption while prepared, packed, or held at said plant are eliminated;

(b) all of the foods on hand at the plant at the time the plant is cleaned, renovated, and rendered suitable for the preparation, packing, and storage of food for human consumption are destroyed, denatured for use as animal feed, or cleaned or otherwise segregated, reconditioned, processed or disposed of under the supervision of a duly authorized representative of the Food and Drug Administration, Department of Health, Education, and Welfare, and all expenses of such supervision are paid by the defendants;

(c) sufficient qualified and experienced personnel, including supervisory personnel, are employed in the plant to properly operate it;

(d) an employee sanitary training program is established; and

(e) an inspection is made of the plant by a duly authorized representative of the Food and Drug Administration, Department of Health, Education, and Welfare, all expenses of such inspection being paid by the defendants and a report made to the court which shows that the above-described or any similar insanitary conditions no longer exist and that the foods for human consumption described in subparagraph (b) above, have been destroyed, denatured, or brought into compliance with the law.

28853. Frozen breaded shrimp. (F.D.C. No. 48623. S. Nos. 51-808 V, 53-545 V.)

QUANTITY: 14 cases, 12 pkgs. each, at Portland, Oreg.

SHIPPED: 10-26-62, from Nogales, Ariz., by Ocean Garden Products, Inc.

LABEL IN PART: (Pkg.) "Net Wt. 2½ Lbs. Ocean Garden * * * breaded shrimp Fantail 12-U * * * Packed for Ocean Garden Products, Inc., San Diego, Calif."

LIBELED: 2-6-63, Dist. Oreg.

CHARGE: 402(a) (3)—contained decomposed shrimp when shipped.

DISPOSITION: 3-28-63. Default—destruction.

28854. Frozen shrimp. (F.D.C. No. 48433. S. Nos. 39-699 V, 40-049/50 V, 41-122 V.)

QUANTITY: 186 ctns., each containing 10 5-lb. boxes, and 70 ctns., each containing 10 boxes, at New York, N.Y.

SHIPPED: 11-9-62, from New Orleans, La., by Continental Seafoods, Inc.

LABEL IN PART: (Boxes of the 186-ctn. lot) "Across The Sea Frozen Peeled & Deveined Shrimp Produced by G. M. Fisheries, Ltd., * * * Karachi, Pakistan * * * Shell on Shrimp"; (ctns. of the 70-ctn. lot) "Famous Brand Frozen Fresh Shrimp Distributed by Famous Frozen Shrimp Co., Inc. Westwego, La.," "Whites 100 V.P. Peeled—C.S.F. New York * * * Dr. Raul Torrealba A. Maracaibo Venezuela Camarones Congelados Producto de Venezuela," and "Frozen Shrimp Caribe Venezuela Congeladora Venezolana S.A. Maracaibo—Producto de Venezuela"; and (some of the boxes of the 70-ctn. lot) "Frozen Fresh Shrimp," and "Fresh Frozen Shrimp Product of Venezuela 5 Pounds Net."

RESULTS OF INVESTIGATION: Some of the boxes of the 70-ctn. lot were unlabeled and some of the boxes and cartons of the 70-ctn. lot failed to bear labels containing the name and address of the manufacturer or the quantity of contents or the name of the product. Some of the boxes of the 70-ctn. lot on which the net weight of 5 pounds was declared were 12 percent short weight.

LIBELED: 12-20-62, S. Dist. N.Y.

CHARGE: 402(a)(3)—when shipped, both lots of the article contained a decomposed substance; 403(e)(1)—shrimp of the 70-ctn. lot failed to bear a label containing the name and address of the manufacturer, packer, or distributor; 403(e)(2)—shrimp of the 70-ctn. lot failed to bear a label containing an accurate statement of the quantity of the contents; and 403(i)(1)—a number of the boxes of the 70-ctn. lot failed to bear the common or usual name of the food.

DISPOSITION: 4-3-63. Default—destruction.

28855. Frozen breaded shrimp. (F.D.C. No. 48365. S. No. 42-375 V.)

QUANTITY: 249 cases, each containing 12 ctns., at Magnolia, N.J., in possession of Deal's Seafood Co., Inc.

SHIPPED: Fresh shrimp was shipped between 9-7-62 and 9-17-62, from New York, N.Y.

LABEL IN PART: (Ctn.) "Deal's Breaded Round Shrimp 15-20 Count 2½ Lb. Net Wt. Packed by Deal's Seafood Company, Magnolia, N.J." or "Columbia Breaded Shrimp 15-20 Count 2 Lb. Net Wt. A Product of Columbia Food Products, Magnolia, N.J."

RESULTS OF INVESTIGATION: The breaded shrimp had been prepared and packed from fresh shrimp by the dealer.

LIBELED: 11-23-62, Dist. N.J.

CHARGE: 402(a)(3)—contained *E. coli* and high total bacterial counts; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 1-4-63. Consent—the article which consisted of 66 cans actually seized was destroyed.

28856. Canned solid-pack tuna (dietetic). (F.D.C. No. 48820. S. No. 4-394 V.)

QUANTITY: 93 cases, each containing 24 cans, at Baltimore, Md.

SHIPPED: 10-12-62, from Seattle, Wash., by McGovern & McGovern.

LABEL IN PART: (Can) "Monarch Dietetic Solid Pack White Tuna In Water No Salt Added * * * Net Weight 6½ Oz. Avoir. * * * Consolidated Foods Corporation Distributors, Chicago, Ill."

LIBELED: 3-19-63, Dist. Md.

CHARGE: 403(h)(2)—when shipped, the article fell below the standard of fill of container for canned solid-pack tuna in that the article was in a container designated as 307 x 113, and the average weight of the pressed cake from 24 cans was less than 4.47 oz.; and its label failed to bear, as required by regulations, a statement that it fell below such standard.

DISPOSITION: 5-17-63. Default—delivered to a charitable organization.

28857. Canned oysters. (F.D.C. No. 48285. S. No. 30-488 V.)

QUANTITY: 102 cases, each containing 48 cans, at Los Angeles, Calif.

SHIPPED: 3-15-62, from Tijuana, Mex., by Distribuidora del Fuerte, S.A.

LABEL IN PART: (Can) "Product of Mexico Oysters in Natural Juices Packed by Emp. De Escuinapa, S. A. for Emp. De Cons. D. Los Mochis, S. A. Drained Wt. 5 Oz. [or "4 Oz."]."

RESULTS OF INVESTIGATION: The article was short drained weight.

LIBELED: 11-13-62, S. Dist. Calif.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of the contents, since the label statements "Drained Wt. 5 Oz." and "Drained Wt. 4 Oz." were inaccurate; and 403(h)(2)—the article failed to conform to the standard of fill of container for canned oysters, since the drained weight of the oysters taken from each container of the article was less than 59 percent of the water capacity of the container, and its label failed to bear a statement of substandard fill of container.

DISPOSITION: 1-25-63. Consent—claimed by Oscar Mendoza, t/a Stone Brokerage Co., Los Angeles, Calif., and exported to the original shipper.

FRUITS AND VEGETABLES

CANNED FRUIT

28858. Canned applesauce. (F.D.C. No. 48325. S. No. 15-878 T.)

QUANTITY: 708 cases, each containing 24 1-lb. cans, at Richmond, Ind.

SHIPPED: 8-21-62, from Butler, Wis., by Tast-D-Lite Foods, Inc.

LABEL IN PART: (Can) "Tast-D-Lite Pink Apple Sauce * * * Consists of Apples, Sugar and Water Tast-D-Lite Foods, Inc., Butler, Wisconsin Distributor."

LIBELED: 10-24-62, S. Dist. Ind.

CHARGE: 403(i)(2)—when shipped, the label of the article failed to bear the common or usual name of each ingredient since FD&C Red No. 4, an artificial coloring, had not been declared; and 403(k)—the article contained an artificial coloring, namely, FD&C Red No. 4, and its label failed to state that fact.

DISPOSITION: 12-7-62. Consent—claimed by Tast-D-Lite Foods, Inc., and relabeled.

28859. Canned peaches. (F.D.C. No. 48049. S. No. 60-555 T.)

QUANTITY: 85 cases, 24 cans each, at Ashtabula, Ohio.

SHIPPED: 7-25-62, from Concord, Ga., by Gold Crest Canning Co.

LABEL IN PART: (Can) "Gold Crest Freestone Peaches Halves In Heavy Syrup packed by Gold Crest Canning Company Concord, Ga. Net contents 1 lb. 13 oz."

LIBELED: 10-3-62, N. Dist. Ohio.

CHARGE: 403(h)(1)—the article fell below the standard of quality for canned peaches because of excessive hardness and its label failed to bear a statement that it fell below such standard.

DISPOSITION: 4-23-63. Consent—delivered to charitable organizations.

VEGETABLES AND VEGETABLE PRODUCTS*

28860. Soybeans. (Inj. No. 381.)

COMPLAINT FOR INJUNCTION FILED: 7-6-60, E. Dist. Va., against Carter-Venable Co., a partnership, Richmond, Va., Edward M. Eppes, a partner, and Edward M. Eppes, III, who was engaged in the management of the firms.

CHARGE: The complaint alleged that the defendants were engaged in buying, processing, storing, and shipping in interstate commerce soybeans which were

*See also Nos. 28806, 28861.

adulterated within the meaning of 402(a)(3) and 402(a)(4) by reason of being processed and stored under conditions whereby they were contaminated with rodent excreta, rodent urine, rodent hairs, and other miscellaneous filth.

It was alleged further that soybeans were stored and processed on defendants' warehouse premises at Richmond, Va., that warehouse No. 4 was inspected by the Food and Drug Administration on 3-9-60 and 3-10-60, and was found to have an active rat infestation; that 5 or 6 live rats were seen among grain and chaff removed from the elevator boot in one corner of the basement; that rats were contaminating burlap bags containing soybeans; that 100 mouse excreta pellets were observed on the third and fourth floors of the warehouse; that in warehouses Nos. 1 and 2 the inspectors observed some 3 to 1 dozen dead mice together with hundreds of rodent excreta pellets on each of the floors of the warehouses; hundreds of rodent excreta pellets were scattered throughout the pit dumps of the elevator together with grain, miscellaneous filth and live rats; that the tops of the pit dumps of the elevator were at ground level and had no covers to prevent filth from entering the pits when not being used; and that the receiving hopper and the horizontal screw conveyor permitted entry of rodents.

The complaint alleged further that the defendants were well aware of the requirements of the law; that the firm was inspected on 10-16-59, at which time rodents were found to be present on every floor of the warehouse building; and that Edward M. Eppes, III, was informed of the insanitary conditions, and of the firm's responsibility with respect to processing and storing human food.

DISPOSITION: On 7-6-60, the court entered a temporary restraining order enjoining the defendants against the acts complained of. On 7-27-60, the defendants having consented, the court entered a decree of permanent injunction enjoining the defendants against causing the introduction and delivery for introduction into interstate commerce of any of the soybeans then on hand at defendants' warehouse facility, or thereafter acquired, for human food unless and until:

(a) such stock has been brought into compliance with the requirements of the Federal Food, Drug, and Cosmetic Act, under the supervision of an authorized representative of the Secretary of the Department of Health, Education, and Welfare;

(b) the defendants' warehouses are thoroughly cleaned and rendered suitable and kept clean and suitable for the storage of food for human consumption, to wit, all rodent infestation and filth and miscellaneous debris are eliminated; means of ingress and egress to the warehouses by rodents are closed; all dead animals are removed; the dump pit area where the soybeans are first received is reconstructed to eliminate possibility of rodent infestation; any insanitary conditions which may result in the contamination of food while held in said warehouses are eliminated; and a continuing program be established to assure against the possibility of subsequent insanitary conditions; and

(c) an inspection is made of the warehouses by a duly authorized representative of the Secretary, and a report made to the court which shows the above-described insanitary conditions no longer exist, and that the aforesaid warehouse facilities are suitable for the storage of food for human consumption.

The Food and Drug Administration made an inspection of the defendants' warehouse facility and found that the defendants had complied with the terms

of the injunction. A report of such inspection was filed with the court and, on 9-29-60, the court entered an order dismissing the injunction.

28861. Dried Great Northern beans, cheesecake mix, poppyseed, and caraway seed. (F.D.C. No. 48253. S. Nos. 9-308/9 V, 9-311/12 V.)

QUANTITY: 41 cases, each containing 24 1-lb. bags of Great Northern beans, 9 cases, each containing 12 6½-oz. pkgs., of cheesecake mix, 3 50-kos. bags of poppyseed, and 3 100-lb. bags of caraway seed, at Utica, N.Y., in possession of E. S. Damsky & Sons, Inc.

SHIPPED: Between 10-14-60 and 9-25-62, from Denver, Colo., Chicago, Ill., Poland, and Holland.

LIBELED: 10-27-62, N. Dist. N.Y.

CHARGE: 402(a)(3)—contained insects, insect larvae and parts; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 12-21-62. Default—destruction.

28862. Various dried beans. (F.D.C. No. 48288. S. Nos. 20-501/2 V, 20-554/60 V.)

QUANTITY: 25 100-lb. bags of baby lima beans, 50 100-lb. bags of pinto beans, 58 100-lb. bags of Great Northern beans, 183 100-lb. bags of navy beans, 82 100-lb. bags of lima beans, 67 100-lb. bags of baby lima beans, 15 100-lb. bags of black-eyed peas, 57 100-lb. bags of kidney beans, and 39 100-lb. bags of red beans, at Proctor, Okla., in possession of Robison Canning Co.

SHIPPED: Between 12-18-61 and 9-13-62, from Greeley, Colo., and Freeland, Mich.

LIBELED: 11-16-62, E. Dist. Okla.

CHARGE: 402(a)(3)—while held for sale, the Great Northern beans and the navy beans contained rodent urine and insect larvae, and the baby lima beans (67-bag lot) contained rodent urine; and 402(a)(4)—all lots of the article were stored under insanitary conditions.

DISPOSITION: 1-7-63. Consent—claimed by Robison Canning Co. Reconditioned and segregated; 5,620 lbs. converted into animal feed.

28863. Canned okra, tomatoes and corn. (F.D.C. No. 48036. S. No. 60-041 T.)

QUANTITY: 27 cases, each containing 24 cans, at New Orleans, La.

SHIPPED: Between 6-1-62 and 8-25-62, from Cullman, Ala., and Laurel, Miss., by King Pharr Canning Operations, Inc., and Miss America Foods, Inc.

LABEL IN PART: (Can) "Blue Plate Okra Tomatoes & Corn * * * net weight 15½ oz. Avoir * * * Distributed by Southern Shell Fish Co., Inc. New Orleans, La."

LIBELED: 9-21-62, E. Dist. La.

CHARGE: 402(a)(3)—the article contained mold when shipped.

DISPOSITION: 1-10-63. Default—destruction.

28864. Canned pork and beans. (F.D.C. No. 48610. S. No. 3-537 V.)

QUANTITY: 82 cases, each containing 24 cans, at Landover, Md.

SHIPPED: 1-2-63, from Delta, Pa., by Snyder Packing Co.

LABEL IN PART: (Can) "State House Pork and Beans in Tomato Sauce Net Contents 1 Lb. 15 Oz. * * * Distributed By Harrisburg Grocery Co. Harrisburg, Pa."

RESULTS OF INVESTIGATION: Examination showed that the article averaged 1.58 percent short weight.

LIBELED: 1-17-63, Dist. Md.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents, since the label statement "Net Contents 1 Lb. 15 Oz." was inaccurate.

DISPOSITION: 3-5-63. Default—delivered to a charitable organization.

28865. Red pimentos. (F.D.C. No. 48581. S. No. 42-320 V.)

QUANTITY: 596 cases, each containing 12 1-pt. jars, at Philadelphia, Pa.

SHIPPED: 9-12-62, from Hurlock, Md., by Harper & Bateman Pickle Co., Inc.

LABEL IN PART: (Jar) "Shupak's Sweet Red Pimentos * * * 10 Oz. Net Drained Weight * * * Sold by Louis Shupak Co. Phila., Pa."

LIBELED: 1-4-63, E. Dist. Pa.

CHARGE: 402(a)(3)—contained insects, insect eggs, insect parts, insect fragments and maggots; 402(a)(4)—prepared and packed under insanitary conditions; and 403(k)—the article contained artificial color and a chemical preservative, namely, sodium benzoate, and its label failed to state such fact.

DISPOSITION: 4-3-63. Consent—claimed by Harper & Bateman Pickle Co., Inc. Reconditioned and relabeled.

28866. Pickled pepper pieces. (F.D.C. No. 48582. S. No. 41-026 V.)

QUANTITY: 92 cases, each containing 4 unlabeled 1-gal. jars, at Brooklyn, N.Y.

SHIPPED: 10-25-62, from Hurlock, Md., by Harper & Bateman Pickle Co., Inc.

LABEL IN PART: (Case) "Cut Peppers."

LIBELED: 1-7-63, E. Dist. N.Y.

CHARGE: 402(a)(3)—when shipped, contained maggots, insects, and insect eggs, larvae, parts, and fragments; 402(a)(4)—prepared and packed under insanitary conditions; 403(e)(1)—the article failed to bear a label containing the name and address of the manufacturer, packer, or distributor (case and jar); 403(e)(2)—the article failed to bear a label containing an accurate statement of the quantity of the contents (jar); 403(i)(1)—the label of the article failed to bear the common or usual name of the food (jar); 403(i)(2)—the label of the article failed to bear the common or usual name of each ingredient (case and jar); and 403(k)—the article contained artificial color and a chemical preservative, namely, sodium benzoate, and its labeling failed to state that fact.

DISPOSITION: 2-27-63. Consent—claimed by Harper & Bateman Pickle Co., Inc. Segregated and reconditioned; 4¾ cases destroyed.

28867. Zucca melon in brine. (F.D.C. No. 48370. S. No. 53-748 V.)

QUANTITY: 95 400-lb. drums, at Forest Grove, Oreg.

SHIPPED: 10-3-62, from Palermo, Calif., by California Zucca Melon Products Co.

LABEL IN PART: (Tag) "Zucca Melon In SO-2 Calcium Chloride * * * From California Zucca Melon Products * * * Palermo, California."

LIBELED: 11-20-62, Dist. Oreg.

CHARGE: 402(a)(3)—contained *Drosophila* flies, *Drosophila* fly fragments and larvae, and other insect fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 1-3-63. Consent—claimed by M. M. Uchida, t/a California Zucca Melon Products, and reconditioned.

TOMATOES AND TOMATO PRODUCTS

28868. Canned tomatoes. (F.D.C. No. 48452. S. No. 10-166 V.)

QUANTITY: 85 cases, each containing 24 1-lb. cans, at Republic, Pa.

SHIPPED: 9-24-62, from Vienna, Md., by Royal Packing Co., Inc.

LABEL IN PART: (Can) "Royal Highness Brand Tomatoes Packed and/or Distributed By Royal Packing Co., Inc., Vienna, Md."

LIBELED: 11-16-62, W. Dist. Pa.

CHARGE: 402(a)(3)—contained *Drosophila* fly eggs and maggots when shipped.

DISPOSITION: 12-20-62. Default—destruction.

28869. Canned tomatoes. (F.D.C. No. 48422. S. No. 40-697 V.)

QUANTITY: 250 cases, each containing 24 1-lb. 12-oz. cans, at Brooklyn, N.Y.

SHIPPED: 10-16-62, from Buena Park, Calif., by Uddo & Taormina Corp. of California.

LABEL IN PART: (Can) "Progresso Italian Style Peeled Tomatoes With Basil * * * Packed By Uddo & Taormina Corp. of California Buena Park, California."

LIBELED: 1-2-63, E. Dist. N.Y.

CHARGE: 403(h)(1)—when shipped, the article fell below the standard of quality for canned tomatoes since it contained tomato peel, per pound of canned tomatoes in the container, which covered an area of more than one square inch; and its label failed to bear, in such manner and form as the regulations specified, a statement that it fell below such standard.

DISPOSITION: 2-18-63. Consent—claimed by Uddo & Taormina Corp., Brooklyn, N.Y., and relabeled.

28870. Canned tomatoes. (F.D.C. No. 48625. S. No. 857 V.)

QUANTITY: 615 cases, each containing 6 6-lb. 6-oz. cans, at La Grange, Ga.

SHIPPED: 10-30-62, from Preston, Md., by Albert W. Sisk & Son.

LABEL IN PART: (Can) "Red-Glo Peeled Tomatoes * * * Albert W. Sisk and Son—Distributors—Not Manufacturers—Main Office, Preston, Md., Sales Office, Aberdeen, Md."

LIBELED: 2-1-63, N. Dist. Ga.

CHARGE: 402(a)(3)—contained *Drosophila* fly eggs and maggots when shipped.

DISPOSITION: 4-1-63. Default—destruction.

28871. Tomato juice. (F.D.C. No. 48438. S. No. 16-391 V.)

QUANTITY: 364 cases, each containing 24 12-oz. cans, at Lancaster, Ky.

SHIPPED: Between 8-15-62 and 9-26-62, from Trafalgar, Ind., by Kenneth N. Rider Co., Inc.

LABEL IN PART: (Can) "RED Gold BRAND INDIANA TOMATO JUICE * * *
DISTRIBUTED BY KENNETH N. RIDER CO., INC., TRAFALGAR,
INDIANA."

LIBELED: 12-28-62, E. Dist. Ky.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 1-30-63. Default—destruction.

28872. Tomato ketchup. (F.D.C. No. 48706. S. No. 15-946 V.)

QUANTITY: 36 cases, each containing 6 7-lb. 3-oz. cans, at Cincinnati, Ohio.

SHIPPED: 9-24-62 and 10-30-62, from Muncie, Ind., by HLH Products.

LABEL IN PART: (Can) "Niehaus Red Label Tomato Ketchup Distributors
Niehaus Bros. Cincinnati 14, Ohio."

LIBELED: 2-18-63, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained *Drosophila* fly eggs and maggots, and decomposed tomato material when shipped.

DISPOSITION: 4-17-63. Default—destruction.

28873. Spaghetti sauce (tomato product). (F.D.C. No. 47885. S. Nos. 55-668/9 T.)

INFORMATION FILED: 12-29-62, N. Dist. N.Y., against Ventre Packing Co., Inc., Syracuse, N.Y.

SHIPPED: On 2-28-62, from Syracuse, N.Y., to Linden, N.J.

LABEL IN PART: (Jar) "Enrico's Spaghetti Sauce or ["Enrico's Spaghetti Sauce With Mushrooms"] Net Wt. 1 lb. 13 oz. A product of Ventre Packing Co., Syracuse, New York."

CHARGE: 403(e)(2)—when shipped, the label of the article failed to bear an accurate statement of the quantity of the contents, since its label represented that each jar contained 1 lb. 13 oz. whereas each jar contained less than 1 lb. 13 oz.

PLEA: Guilty.

DISPOSITION: 1-21-63. Fined \$500.

28874. Spaghetti sauce (tomato product). (F.D.C. No. 47877. S. Nos. 14-328 T, 41-352 T.)

INFORMATION FILED: 11-27-62, W. Dist. N.Y., against S. Gumpert Co., Inc., Ontario, N. Y., and Leonard Gminski, plant manager.

SHIPPED: Between 11-9-61 and 11-22-61, from Ontario, N.Y., to Chicago, Ill., and Jersey City, N.J.

LABEL IN PART: (Can) "Gumpert's Supreme Brand Spaghetti Sauce Net Contents 1 Quart Made in U.S.A. by S. Gumpert Co., Inc., Jersey City, N.J."
"Gumpert's Spaghetti Sauce Contents 3 Quarts Made in U.S.A. by S. Gumpert Co., Inc., Jersey City, N.J."

CHARGE: 402(a)(3)—when shipped, contained insects, insect fragments, maggot and fly eggs; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 3-25-63. Corporation—\$1,000 fine; Gminski—\$500 fine.

NUTS*

28875. Shelled peanuts. (F.D.C. No. 48633. S. Nos. 7-148 V, 7-538 V.)

QUANTITY: 156 125-lb. bags, at Boston, Mass., in possession of Superior Nut Co.

SHIPPED: 8-30-62 and 11-26-62, from Dawson, Ga.

LIBELED: 2-6-63, Dist. Mass.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-21-63. Consent—claimed by Superior Nut Co., Boston, Mass. Segregated; 51 bags denatured.

28876. Toasted peanuts. (F.D.C. No. 47140. S. Nos. 33-263/65 T.)

QUANTITY: 1,210 cases, 12 9½-oz. jars each, and 144 cases, 12 4½-oz. jars each, and 60 cases, 6 4-lb. 12-oz. cans each, at Minneapolis, Minn.

SHIPPED: 1-19-62, from Ann Arbor, Mich., by American Home Foods, Inc.

LABEL IN PART: (Jars) “* * * Franklin Dry Toasted Peanuts Less Calories Not Greasy Salted * * * Vacuum Packed with salt, starch, monosodium glutamate, herbs, and spices added. No oils, Fats or Sugars Used in Processing. Made by American Home Foods, Inc., Ann Arbor, Michigan”; (can) “Franklin Dry Toasted Peanuts * * * They’re Not Greasy Made by American Home Foods, Inc., Ann Arbor, Mich. Peanuts Dry Toasted. No Oils or Fats Added Vacuum Packed with salt, starch, monosodium glutamate, herbs, and spices added.”

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 45 percent fat.

LIBELED: 2-23-62, Dist. Minn.

CHARGE: 403(a)—when shipped, the label statements (jars) “Less Calories Not Greasy,” “No oils, Fats or Sugars Used in Processing” and (cans) “They’re Not Greasy” and “No Oils or Fats Added” represented and suggested that the caloric content of the article was significantly different from roasted peanuts generally, and that the article was of unusual value for weight reduction, which statements were false and misleading since they were contrary to fact.

DISPOSITION: American Home Products Corp., New York, N.Y., claimant, filed a motion for dismissal of the libel for failure of the libel to state a claim upon which relief could be granted. The matter came on for hearing and, at its conclusion on 5-14-62, the court granted the claimant’s motion for dismissal as to the article in the cans and denied the motion as to the article in the jars. On 1-25-63, the claimant having consented to the entry of a decree against the article in the jars, judgment of condemnation was entered and such article was ordered released under bond for relabeling.

28877. Shelled pecans. (F.D.C. No. 48629. S. No. 4-659 V.)

QUANTITY: 28 5-lb. boxes, at Brentwood, Md.

SHIPPED: 12-28-62, from Jonesboro, Ga., by Harvey Pecan Co.

LABEL IN PART: (Box) “Harvey Pecan Co., Jonesboro, Georgia Liberty Food Distributors.”

LIBELED: 2-11-63, Dist. Md.

* See also No. 28806.

CHARGE: 402(a)(3)—contained rodent hairs and feather barbules; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 3-25-63. Default—destruction.

28878. Shelled pecans. (F.D.C. No. 48520. S. Nos. 27-659 T, 28-720 T.)

INFORMATION FILED: 3-1-63, E. Dist. Ark., against Thompson Co., Inc., Searcy, Ark.

SHIPPED: Between 10-27-61 and 11-3-61, from Arkansas to Iowa and Missouri.

CHARGE: 402(a)(3)—contained *E. coli*; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 4-5-63. \$500 fine.

28879. Shelled pecans. (F.D.C. No. 48615. S. No. 41-217 V.)

QUANTITY: 110 30-lb. cases at Brooklyn, N.Y.

SHIPPED: 11-26-62, from Albany, Ga., by Funsten Nut Co.

LABEL IN PART: (Case) "Select Pecan Pieces (Medium) (Large) Funsten Nut Company, St. Louis, Mo."

LIBELED: 1-28-63, E. Dist. N.Y.

CHARGE: 402(a)(3)—contained *E. coli* when shipped.

DISPOSITION: 5-22-63. Consent—claimed by Funsten Nut Co., Div. of Pet Milk Co., and released under bond to be brought into compliance with the law.

28880. Shelled black walnuts. (F.D.C. No. 48647. S. Nos. 45-852/4 V.)

QUANTITY: 145 70-lb. cases, and 243 30-lb cases, at St. Louis, Mo.

SHIPPED: Between 1-2-63 and 1-4-63, from Gravette, Ark., by Gravette Shelling Co., Inc.

LABEL IN PART: (70-lb. case) "Large XX Pasteurized" and (30-lb. case) "Shelled Eastern Black Walnuts Distributed by R. E. Funsten Co. St. Louis, Mo. Large Pasteurized."

LIBELED: 2-25-63, E. Dist. Mo.

CHARGE: 402(a)(3)—contained *E. coli* when shipped.

DISPOSITION: 3-13-63. Consent—claimed by Gravette Shelling Co., Inc., and reconditioned.

28881. Shelled black walnuts. (F.D.C. No. 48729. S. Nos. 46-770 V, 46-851/2 V.)

QUANTITY: 912 30-lb. cases, at St. Louis, Mo.

SHIPPED: Between 2-1-63 and 2-12-63, from Gravette, Ark., by Gravette Shelling Co., Inc.

LABEL IN PART: (Case) "Shelled Eastern Black Walnuts Distributed by R. E. Funsten Co. St. Louis, Mo."

LIBELED: 3-28-63, E. Dist. Mo.

CHARGE: 402(a)(3)—contained *E. coli*; and 402(a)(4)—prepared and packed under insanitary conditons.

DISPOSITION: 4-16-63. Consent—claimed by Gravette Shelling Co., Inc., and reconditioned.

28882. Shelled black walnuts. (F.D.C. No. 48667. S. No. 27-928 V.)

QUANTITY: 3 30-lb. ctns., at Hutchinson, Kans.

SHIPPED: 12-28-62, from Verona, Mo., by Spring River Shelling Co.

LABEL IN PART: (Ctn.) "Ozark Brand Black Walnuts * * * Spring River Shelling Co. Verona, Mo. Medium Size."

LIBELED: On or about 3-4-63, Dist. Kans.

CHARGE: 402(a) (3)—contained *E. coli* when shipped.

DISPOSITION: 5-16-63. Default—destruction.

28883. Shelled black walnuts. (F.D.C. No. 48945. S. No. 77-868 V.)

QUANTITY: 6 30-lb. ctns., at Kalamazoo, Mich.

SHIPPED: 3-8-63, from Verona, Mo., by Spring River Shelling Co.

LABEL IN PART: (Ctn.) "Ozark Brand Black Walnuts Packed and Pasteurized by Spring River Shelling Co., Verona, Mo. Large."

LIBELED: On or about 5-4-63, W. Dist. Mich.

CHARGE: 402(a) (3)—contained *E. coli* when shipped.

DISPOSITION: 6-17-63. Default—destruction.

POULTRY

28884. Canned chicken breasts and canned turkey breasts. (F.D.C. No. 48605. S. Nos. 41-212/15 V.)

QUANTITY: 132 cases, 24 cans each, of chicken breasts, and 100 cases, 24 cans each, of turkey breasts at New York, N.Y.

SHIPPED: Between 3-7-62 and 10-2-62, from Chicago, Ill.

LABEL IN PART: (Can) "Chicken [or "Turkey"] Breast Net Weight 1 Lb. 8 Ozs."

LIBELED: 1-15-63, S. Dist. N.Y.

CHARGE: 402(a) (3)—while held for sale, the article contained decomposed chicken or turkey meat.

DISPOSITION: 2-19-63. Default—destruction.

28885. Canned turkey meat. (F.D.C. No. 48665. S. No. 59-319 V.)

QUANTITY: 8 cases, each containing 24 1-lb. 8-oz. cans, at Winston-Salem, N.C.

SHIPPED: 8-13-62, from Chicago, Ill.

LIBELED: 3-4-63, M. Dist. N.C.

CHARGE: 402(a) (3)—contained decomposed turkey meat while held for sale.

DISPOSITION: 3-28-63. Default—destruction.

28886. Canned turkey breasts and canned chicken breasts. (F.D.C. No. 48670. S. Nos. 10-399/400 V.)

QUANTITY: 18 cases, each containing 12 1-lb. 8-oz. cans of canned turkey breasts, and 14 cases, each containing 12 1-lb. 8-oz. cans of canned chicken breasts, at Buffalo, N.Y.

SHIPPED: 10-23-62, from Chicago, Ill.

LIBELED: 1-11-63, W. Dist. N.Y.

CHARGE: 402(a) (3)—contained decomposed turkey and/or chicken meat while held for sale.

DISPOSITION: 2-6-63. Default—destruction.

28887. Canned chicken and turkey meat. (F.D.C. No. 48721. S. Nos. 32-601/2 V.)

QUANTITY: 41 cases, each containing 6 1-lb. 8-oz. cans of chicken meat and 47 cases, each containing 6 1-lb. 8-oz. cans of turkey meat, at Riverside, Calif.

SHIPPED: 12-3-62, from Chicago, Ill.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing progressive decomposition.

LIBELED: 3-14-63, S. Dist. Calif.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 4-23-63. Default—destruction.

28888. Frozen turkeys. (F.D.C. No. 48677. S. Nos. 46-281/2 V.)

QUANTITY: 489 crates, at Springfield, Ill.

SHIPPED: On an unknown date, from Lubbock, Tex., by Clary Poultry Products Co.

LABEL IN PART: (Crate) "Young Hen [or "Tom"] Turkey Frozen * * * Clary Poultry Products Company, Lubbock, Texas."

LIBELED: 1-17-63, S. Dist. Ill.

CHARGE: 402(a)(3)—contained decomposed turkey meat when shipped.

DISPOSITION: 3-7-63. Consent—claimed by Clary Poultry Products Co., of Lubbock, Tex. Segregated; 718 lbs. destroyed.

28889. Chicken fat. (F.D.C. No. 47407. S. No. 14-520 T.)

QUANTITY: 141 30-lb. cans, at Shabbona, Ill.

SHIPPED: Prior to 3-5-62, from Palmetto, Fla., by Manatee Poultry Products, Inc.

LIBELED: 3-23-62, N. Dist. Ill.

CHARGE: 402(a)(3)—when shipped, the article contained rancid fat; 403(e)—the article failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of the contents; and 403(i)(1)—the article failed to bear the common or usual name of the food.

DISPOSITION: 5-23-62. Default—destruction.

SPICES, FLAVORS, AND SEASONING MATERIALS*

28890. French dressing. (F.D.C. No. 48122. S. No. 91-750 T.)

QUANTITY: 73 cases, each containing 12 11-oz. btls., and 79 cases, each containing 12 6-oz. btls., at Kansas City, Mo.

SHIPPED: 7-17-62, from San Diego, Calif., by Westgate-California Products, Inc.

LABEL IN PART: (Btl.) "New! in 100% Safflower Oil Girard's Original Franch Dressing * * * Why is Safflower Oil Important to Your Health? * * * Westgate-California Products, Inc. San Diego, California."

ACCOMPANYING LABELING: Leaflet entitled, "Now! Girard's Original French Dressing Also in 100% Safflower Oil!"; and poster entitled "The America Heart Association Reports."

*See also No. 28861.

RESULTS OF INVESTIGATION: The article was in the possession of various Kansas City warehouses and retail stores. Some of the accompanying labeling was in the possession of Russell Brokerage Co. and some had been delivered to a retail store by Russell Brokerage Co. and set up with a display of the article.

LIBELED: 9-26-62, W. Dist. Mo.

CHARGE: 403(a)—when shipped and while held for sale, the labeling of the article contained false and misleading representations that the article was adequate and effective to promote health; control blood cholesterol levels; and for the prevention of heart disease, atherosclerosis, heart attacks and strokes.

DISPOSITION: 2-19-63. Default—labeling destroyed and the article delivered to a charity with the understanding that it not be sold.

28891. Mustard bran. (F.D.C. No. 48691. S. No. 19-034 V.)

QUANTITY: 68 100-lb. bags, at Oklahoma City, Okla.

SHIPPED: 5-7-62 and 6-11-62, from Kansas City, Mo.

LIBELED: 1-31-63, W. Dist. Okla.

CHARGE: 402(a) (3)—contained insects and insect larvae while held for sale.

DISPOSITION: 2-27-63. Default—delivered to a public institution for use as animal feed.

28892. Mustard seed. (F.D.C. No. 48266. S. No. 18-084 V.)

QUANTITY: 102 50-kilo bags, at Houston, Tex.

SHIPPED: 2-17-62, from Denmark.

LIBELED: 11-1-62, S. Dist. Tex.

CHARGE: 402(a) (3)—contained insects and insect larvae while held for sale.

DISPOSITION: 12-20-62. Consent—claimed by United States Coffee & Tea Co., Dallas, Tex. Segregated; 859 lbs. destroyed.

28893. Saffron. (F.D.C. No. 48950. S. No. 79-054 V.)

QUANTITY: 4 unlabeled 1-lb. cans, at Chicago, Ill.

SHIPPED: 10-31-62, from New York, N.Y., by H. Shoenfeld & Sons, Inc.

RESULTS OF INVESTIGATION: Analysis showed that the article contained approximately 19 percent potassium nitrate.

LIBELED: 5-7-63, N. Dist. Ill.

CHARGE: 402(a) (2) (C)—when shipped, the article contained a food additive, namely, potassium nitrate, which was unsafe within the meaning of 409, since it and its use or intended use were not in conformity with a regulation or exemption in effect pursuant to 409; 402(b) (2)—potassium nitrate had been substituted wholly or in part for saffron; 403(e)—the article failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of the contents; and 403(i)—the article failed to bear a label containing (1) the common or usual name of the food, and (2) the common or usual name of each ingredient.

DISPOSITION: 6-11-63. Default—destruction.

28894. Sauce and gravy seasoning. (F.D.C. No. 48624. S. No. 12-018 V.)

QUANTITY: 12 cases, each containing 12 1-qt. btls., at Chicago, Ill.

SHIPPED: On an unknown date, from Ozone Park, N.Y.

LIBELED: 1-31-63, N. Dist. Ill.

CHARGE: 402(a)(2)(C)—while held for sale, the article contained a food additive, namely, coumarin, which was unsafe within the meaning of 409, since it and its use or intended use were not in conformity with a regulation or exemption in effect pursuant to 409.

DISPOSITION: 2-27-63. Default—destruction.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE*

28895. Vitamin tablets. (F.D.C. No. 48718. S. No. 17-363 V.)

QUANTITY: 57 1,000-tablet btls., at Dayton, Ohio.

SHIPPED: Between 1-1-59 and 1-31-59, from Greenville, S.C.

RESULTS OF INVESTIGATION: Analysis showed that the article contained approximately 50 percent of the declared amount of vitamin D.

LIBELED: 3-11-63, S. Dist. Ohio.

CHARGE: 402(b)(1)—while held for sale, the valuable constituent, vitamin D, had been in part omitted or abstracted from the article; and 403(a)—the label statement "Vitamin D—400 USP Units" was false and misleading as applied to an article containing less than the declared amount of vitamin D.

DISPOSITION: 4-30-63. Default—the court ordered that the declaration of a vitamin D content be corrected and that the tablets be delivered to a charitable institution.

28896. Vitamin products. (F.D.C. No. 48814. S. Nos. 29-842/5 V.)

QUANTITY: 36 100-capsule btls. of vitamin-mineral capsules, 81 100-capsule and 73 40-capsule btls. of multiple vitamin capsules, 220 100-capsule and 33 250-capsule btls. of multiple vitamin capsules for children, 17 1-pt. btls. of multiple vitamin sirup for children, at Kansas City, Mo.

SHIPPED: Between 3-12-58 and 3-11-63, from Bridgeport, Conn.

RESULTS OF INVESTIGATION: Analysis showed that the articles were 20 or more percent deficient in vitamin B₁ and that the sirup was approximately 75 percent deficient in vitamin D.

LIBELED: 3-15-63, W. Dist. Mo.

CHARGE: 402(b)(1)—while held for sale, valuable constituents, namely, vitamins B₁ and D, were in part omitted or abstracted from the article; and 403(a)—the label statements (vitamin-mineral capsules) "Each Capsule Contains * * * Thiamine Mononitrate (B₁) 7.5 mgs.," (multiple vitamin capsules) "Each Capsule Contains * * * Thiamine Mononitrate (B₁) 10 mgs.," (multiple vitamin capsules for children) "Each Capsule Contains * * * Thiamine Mononitrate (B₁) 1 mgm.," and (sirup) "One average teaspoonful (5 cc.) contains * * * Vitamin D 1,000 U.S.P. Units; Thiamine Hydrochloride (B₁) 5 mgms." were false and misleading as applied to products containing less than the declared amounts of these vitamins.

DISPOSITION: 5-2-63. Default—destruction.

28897. Food supplement tablets and capsules. (F.D.C. No. 48641. S. Nos. 64-964/5V.)

QUANTITY: 279 100-capsule btls. and 147 100-tablet btls. at Bristol, Tenn.

*See also No. 28856.

SHIPPED: 10-19-59 and 5-11-60, from Newark, N.J.

RESULTS OF INVESTIGATION: Each capsule was labeled to contain .5 mg folic acid and with directions for use of 1 or 2 capsules daily; the tablets were labeled to contain .25 mg. folic acid and with directions for use of 1 or 2 tablets daily.

LIBELED: 2-20-63, E. Dist. Tenn.

CHARGE: 402(a)(2)(C)—while held for sale, the articles contained a food additive, namely, folic acid, which was unsafe within the meaning of 409, since it and its use or intended use were not in conformity with a regulation or exemption in effect pursuant to 409.

DISPOSITION: 4-4-63. Default—destruction.

MISCELLANEOUS FOODS

28898. Dried corn husks. (F.D.C. No. 48640. S. No. 32-729 V.)

QUANTITY: 20 unlabeled bales at Tucson, Ariz.

SHIPPED: 12-30-62, from San Antonio, Tex., by Isidro Garcia.

LIBELED: 2-27-63, Dist. Ariz.

CHARGE: 402(a)(3)—contained insects, insect excreta, and insect-damaged husks when shipped.

DISPOSITION: 4-15-63. Default—destruction.

28899. Pie filling. (F.D.C. No. 48402. S. No. 12-410 V.)

QUANTITY: 120 cases, each containing 12 1-lb. 5-oz. cans, at Chicago, Ill.

SHIPPED: 8-29-62, from Duluth, Minn., by Northland Foods, Inc.

LABEL IN PART: (Case and can) "Holleb's Ready To Use Cherry Pie-Filling * * * Ingredients Cherries, Sugar, Corn Starch, Salt, Water * * * Distributed by Holleb & Co. Chicago, Illinois."

RESULTS OF INVESTIGATION: Analysis showed that the article contained undeclared artificial colors, namely, FD&C Red No. 2 and FD&C Red No. 4.

LIBELED: 12-6-62, N. Dist. Ill.

CHARGE: 403(k)—when shipped, the article contained artificial colors and its label failed to state that fact.

DISPOSITION: 1-11-63. Consent—claimed by Northland Foods, Inc., and relabeled.

28900. Bakery pan coating. (F.D.C. No. 48278. S. No. 53-743 V.)

QUANTITY: 20 drums, at Portland, Oreg.

SHIPPED: 8-10-62, from Los Angeles, Calif., by Colony Products Co.

LABEL IN PART: "Colony Products Company CBCLA * * * Colony Bakery Pan Coating USP * * * 100 Vegoil * * * Net 430 Los Angeles, California."

RESULTS OF INVESTIGATION: Examination showed that the article was an oil containing approximately 4 percent mineral oil.

LIBELED: 11-15-62, Dist. Oreg.

CHARGE: 402(b)(2)—when shipped, mineral oil had been substituted in whole or in part for vegetable oil; 403(a)—the name of the article "Bakery Pan Coating USP * * * 100 Vegoil" suggested and implied that the article was vegetable oil and recognized in the United States Pharmacopeia, which name was false and misleading since the article was not U.S.P. and since mineral oil had been substituted in whole or in part for vegetable oil; and 403(i)(2)—

the article was fabricated from two or more ingredients and its label failed to bear the name of each such ingredient.

DISPOSITION: 1-3-63. Consent—claimed by Colony Products Co., Vernon, Calif., and relabeled.

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¹ (28822, 28852, 28860) Injunction issued.
² (28820) Prosecution contested.

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Poppysseed_____	28861	frozen_____	28888
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Poultry_____	28884-28889	Vegetables. <i>See</i> Fruits and vege-	
Puffed rice_____	28833	tables.	
wheat_____	28833	Venus sesame squares (wafers)---	28803
Rice_____	28806,	Vitamin, mineral, and other	
	28830-28832	products of special dietary	
puffed_____	28833	significance_____	28895-28897
Rolls_____	28805	Walnuts, black, shelled---	28880-28883
Saffron_____	28893	Wheat_____	¹ 28822-28829
Salt_____	28832	puffed_____	28833
Sauce seasoning_____	28894	Zucca melon, in brine_____	28867

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N.J. No.		N.J. No.
Acadia Fisheries, Ltd.:		Cal-Oro Rice Growers, Inc.:	
frozen breaded perch_____	28847	rice_____	28831
All Star Mills, Inc.:		Cargill, Inc.:	
self-rising flour_____	28815	wheat_____	28828
American Foods, Inc.:		Carter-Venable Co.:	
egg noodles_____	² 28820	soybeans_____	¹ 28860
American Home Foods, Inc.:		Clary Poultry Products Co.:	
toasted peanuts_____	28876	frozen turkeys_____	28888
Austin Biscuit Co., Div. of Fair-		Colony Products Co.:	
mont Foods Co.:		bakery pan coating_____	28900
devil's food cake_____	28804	Columbia Food Products:	
Ball, Julian, Industries, Inc.:		frozen breaded shrimp_____	28855
cookies_____	28801	Comet (boat):	
Black, C. F.:		frozen haddock fillets_____	28848
rice, grits, and salt_____	28832	Consolidated Foods Corp.:	
Boats. <i>See</i> Comet, Lady of Good		canned solid-pack tuna	
Voyage, and Michigan.		(dietetic)_____	28856
California Zucca Melon Products		Consolidated Shippers:	
Co.:		butter_____	28839
zucca melon in brine_____	28867		

¹ (28822, 28852, 28860) Injunction issued.² (28820) Prosecution contested.

	N.J. No.		N.J. No.
Continental Seafoods, Inc.:		Famous Frozen Shrimp Co., Inc.:	
frozen shrimp-----	28854	frozen shrimp-----	28854
Contino, F. A.:		Farmers Elevator Co.:	
incubator reject eggs-----	28844	wheat-----	28829
Cooperative Grange League Fed-		Fisher Bros. Co.:	
eration Exchange, Inc.:		egg noodles-----	28821
buckwheat flour and pancake		Funsten Nut Co.:	
mix-----	28818	shelled pecans-----	28879
Crystal Products, Inc.:		Funsten, R. E., Co.:	
swiss cheese-----	28842	shelled black walnuts--	28880, 28881
Daitch Crystal Dairies, Inc.:		Garcia, Isidro:	
swiss cheese-----	28842	dried corn husks-----	28898
Damsky, E. S., & Sons, Inc.:		G. M. Fisheries, Ltd.:	
dried Great Northern beans,		frozen shrimp-----	28854
cheesecake mix, poppyseed,		Gilbertson, Oscar:	
and caraway seed-----	28861	wheat----- ¹	28822
Deal's Seafood Co., Inc.:		Gminski, Leonard:	
frozen breaded shrimp-----	28855	spaghetti sauce (tomato prod-	
Delmonico Foods, Inc.:		uct)-----	28874
egg noodles-----	28821	Gold Crest Canning Co.:	
Delmonico Foods, Inc., of		canned peaches-----	28859
Florida:		Grand Prairie Wholesale Grocer	
egg noodles----- ²	28820	Co., Inc.:	
Denver Flour Mills Co.:		cookies and flour-----	28802
enriched flour-----	28817	Gravette Shelling Co., Inc.:	
Devincenzi, A. M., Co.:		shelled black walnuts--	28880, 28881
flour-----	28814	Grosjean, C. E., Rice Milling Co.:	
Dial Wholesale Grocer Co.:		rice-----	28830
flour, cornmeal, and dried		Gumpert, S., Co., Inc.:	
Great Northern beans-----	28811	spaghetti sauce (tomato prod-	
Distribuidora del Fuerte, S.A.:		uct)-----	28874
canned oysters-----	28857	HLH Products:	
Edgeley Cooperative Creamery		tomato ketchup-----	28872
Co.:		Habel, Armbruster & Larsen Co.:	
butter-----	28837, 28838	flour-----	28810
Emp. De Cons. De Los Mochis,		Harper & Bateman Pickle Co.,	
S. A.:		Inc.:	
canned oysters-----	28857	pickled pepper pieces-----	28866
Emp. De Escuinapa, S. A.:		red pimentos-----	28865
canned oysters-----	28857	Harrisburg Grocery Co.:	
Eppes, E. M.:		canned pork and beans-----	28864
soybeans----- ¹	28860	Harvey Pecan Co.:	
Eppes, E. M., III:		shelled pecans-----	28877
soybeans----- ¹	28860	Henke & Pillot, Div. of Kroger	
Equity Elevator & Trading Co. of		Co.:	
Hickson:		enriched flour-----	28817
wheat----- ¹	28822	Herold, C. W., Jr.:	
Fairmont Foods Co. See Austin		cornmeal, flour, unshelled pea-	
Biscuit Co.		nuts, dried lima beans, and	
		rice-----	28806
		Herold & Miller, Inc.:	
		cornmeal, flour, unshelled pea-	
		nuts, dried lima beans, and	
		rice-----	28806
		Hiegel, T. J.:	
		cornmeal, Metrecal wafers, and	
		egg noodles-----	28807

¹ (28822, 28852, 28860) Injunction issued.² (28820) Prosecution contested.

	N.J. No.		N.J. No.
Hiegel Wholesale Grocer Co. <i>See</i> Hiegel, T. J.		legs, breaded scallops, and fried chicken-----	¹ 28852
Holleb & Co.:		Niehaus Bros.:	
pie filling-----	28899	tomato ketchup-----	28872
Indiana Grain Cooperative, Inc.:		Northland Foods, Inc.:	
wheat-----	28825, 28826	pie filling-----	28899
Japan Food Corp.:		Ocean Garden Products, Inc.:	
rice-----	22831	frozen breaded shrimp-----	28853
Johnson Biscuit Co.:		Oldach, W. H., Inc.:	
devil's food cake-----	28804	frozen eggs-----	28845
King Pharr Canning Operations, Inc.:		Pariser Bakery:	
canned okra, tomatoes and corn-----	28863	flour-----	28812
Kroger Co. <i>See</i> Henke & Pillot.		Peavey Occident:	
Lady of Good Voyage (boat):		wheat-----	28827
frozen perch fillets-----	28846	Pick-Shapiro Fisheries, Inc.:	
Larsen, H. W.:		frozen breaded fish sticks-----	28851
flour-----	28810	frozen pollock-----	28849
Lewis, E. R.:		frozen pollock portions and frozen pollock sticks-----	28850
rice-----	28831	Port of San Francisco Grain Terminals, Inc.:	
Liberty Food Distributors:		wheat-----	28824
shelled pecans-----	28877	Potomac Creamery Co., Inc.:	
Little Brownie Bakers, Inc.		butter-----	28840
cookies-----	28801	Pueblo Supermarkets, Inc.:	
Manatee Poultry Products, Inc.:		rice-----	28831
chicken fat-----	28889	Quaker Oats Co.:	
McGovern & McGovern:		puffed wheat and puffed rice--	28833
canned solid-pack tuna (die- tetic)-----	28856	Redi Food Co., Inc.:	
Michigan (boat):		frozen breaded shrimp, bread- ed soft shell crabs, breaded frog legs, breaded scallops, and fried chicken-----	¹ 28852
frozen haddock fillets-----	28848	Rider, K. N., Co., Inc.:	
Miss America Foods, Inc.:		tomato juice-----	28871
canned okra, tomatoes and corn-----	28863	Robison Canning Co.:	
Monroe-Pearson Co.:		various dried beans-----	28862
flour-----	28808	Royal Packing Co., Inc.:	
Monterey Cheese Co.:		canned tomatoes-----	28868
parmesan cheese-----	28841	Russell-Miller Milling Co.:	
Morabito Baking Co., Inc.:		wheat-----	28823
rolls-----	28805	Rutstein, Alan:	
Nichols, Bernard:		incubator reject eggs-----	28844
frozen breaded shrimp, breaded soft shell crabs, breaded frog legs, breaded scallops, and fried chicken-----	¹ 28852	Shoenfeld, H., & Sons, Inc.:	
Nichols, Harold:		saffron-----	28893
frozen breaded shrimp, breaded soft shell crabs, breaded frog		Shupak, Louis, Co.:	
		red pimentos-----	28865
		Singer, Leo, Candy & Tobacco Co.:	
		candy-----	28836

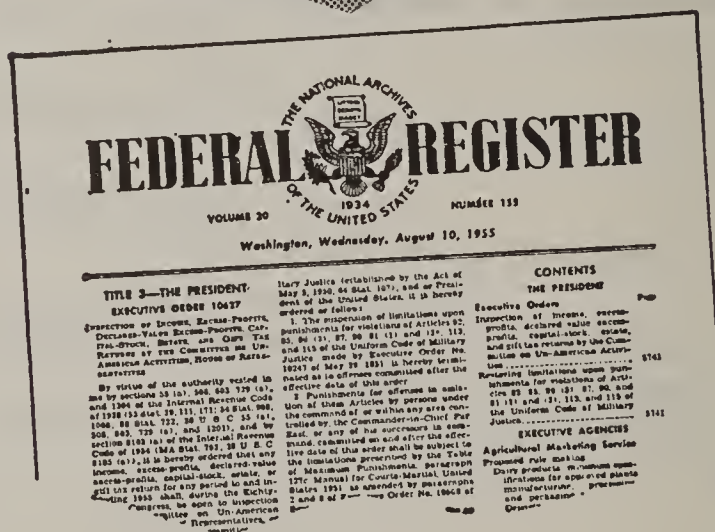
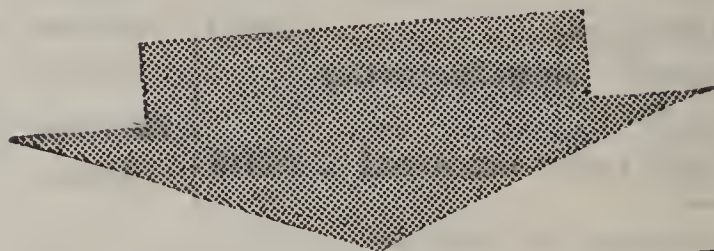
¹ (28822, 28852, 28860) Injunction issued.

	N.J. No.		N.J. No.
Sisk, A. W., & Son:		Ventre Packing Co., Inc.:	
canned tomatoes-----	28870	spaghetti sauce (tomato prod-	
Snyder Packing Co.:		uct)-----	28873
canned pork and beans-----	28864	Venus Wheat Wafers, Inc.:	
Southern Shell Fish Co., Inc.:		Venus sesame squares (wa-	
canned okra, tomatoes and		fers)-----	28803
corn-----	28863	Viviano, P. J.:	
Spring River Shelling Co.:		egg noodles-----	28821
shelled black walnuts--	28882, 28883	Viviano, P. S.:	
Superior Nut Co.:		egg noodles-----	² 28820
shelled peanuts-----	28875	Westgate-California Products,	
Tast-D-Lite Foods, Inc.:		Inc.:	
canned applesauce-----	28858	french dressing-----	28890
Thompson Co., Inc.:		Weston Biscuit Co.:	
shelled pecans-----	28878	flour-----	28809
Uddo & Taormina Corp. of		Zerivitz, Arnold:	
California:		flour-----	28812
canned tomatoes-----	28869	Zerivitz, Beryl:	
U.S. Macaroni Manufacturing		flour-----	28812
Co., Inc.:			
lasagna and twist macaroni--	28819		

² (28820) Prosecution contested.

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